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## Legislative Assembly of Ontario

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## Assemblée législative de l'Ontario

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# Official Report of Debates (Hansard)

Wednesday 4 December 1996

# Journal des débats (Hansard)

Mercredi 4 décembre 1996

**Standing committee on  
administration of justice**

**Comité permanent de  
l'administration de la justice**

**Family Responsibility  
and Support Arrears  
Enforcement Act, 1996**

**Loi de 1996  
sur les obligations familiales  
et l'exécution des arriérés d'aliments**



Chair: Gerry Martiniuk  
Clerk: Douglas Arnott

Président : Gerry Martiniuk  
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LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Wednesday 4 December 1996

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Mercredi 4 décembre 1996

*The committee met at 1538 in committee room 1.*

FAMILY RESPONSIBILITY  
AND SUPPORT ARREARS  
ENFORCEMENT ACT, 1996

LOI DE 1996  
SUR LES OBLIGATIONS FAMILIALES  
ET L'EXÉCUTION DES ARRIÉRÉS D'ALIMENTS

Consideration of Bill 82, An Act to establish the Family Responsibility Office, protect the interests of children and spouses through the strict enforcement of support orders while offering flexibility to responsible payors and make consequential amendments to certain statutes / Projet de loi 82, Loi créant le Bureau des obligations familiales, visant à protéger les intérêts des enfants et des conjoints grâce à l'exécution rigoureuse des ordonnances alimentaires tout en offrant une certaine souplesse aux payeurs responsables, et apportant des modifications corrélatives à des lois.

**The Chair (Mr Gerry Martiniuk):** I see a quorum, if we may proceed. Mr Tilson has an answer to a question raised by Ms Boyd yesterday.

**Mr David Tilson (Dufferin-Peel):** Mrs Boyd asked a question of the ministry with respect to a comment made by the Attorney General about funds disbursed to recipients. I'd like to outline what those funds were.

I believe the Attorney General made a comment for the middle of the month, which was I think \$20 million. I will outline in one-week intervals what has been disbursed to recipients in the month of November: from November 1 to November 7, \$11,916,368; from November 8 to November 14, \$6,924,871; from November 15 to November 21, \$8,286,260; from November 22 to November 28, \$6,088,143; November 29 was \$5,727,831. That's a total for the month of November of \$38,943,473, and that includes the moneys that were paid to Comsoc.

**Mrs Marion Boyd (London Centre):** The rather surprising \$5 million on one day: Would that be the bank transfer day or would that be the total transfer of the dollars to Comsoc?

**Mr Tilson:** In my understanding, the amount paid to Comsoc was \$8 million, so I would assume it was the final transfer day. Perhaps Mr Goodman — Mr Chair, for the record, the speaker representing the ministry is Mr Ken Goodman.

**Mr Ken Goodman:** The figure on November 29 includes, I don't know the exact amount, but a large amount for Comsoc, because it usually is paid once a month.

**Mrs Boyd:** That's what I thought. Thank you very much.

CAROLE CURTIS

**The Chair:** Our first presenter is Ms Carole Curtis, solicitor, and a written brief has been delivered. It should have been delivered to all of you. Ms Curtis was advised early this morning of a cancellation and she was the next person in line. Thank you very much for your expeditious work in regard to this. Would you please proceed.

**Ms Carole Curtis:** Thank you. I'm very happy to have this chance to speak about this bill. I'm a family law lawyer in Toronto. I've been practising for 18 years, and before the family support plan existed in 1986 I was probably one of the few lawyers in Toronto who actually did some enforcement work. This wasn't very attractive work and not very many people wanted to do it.

There are probably two very significant changes that come about as a result of this bill. If I can just tell you what's in my written material, the first couple of pages give you an overview of what I think are some of the pluses and some of the minuses of this bill, and the next seven or eight pages set them out in some detail. I'm not going to go through the paper, but I am going to try and highlight some of the things I think are significant.

There are two very important proposals that the legislation will accomplish. One is what I call privatizing the enforcement program, granting the Attorney General the authority to transfer responsibility for the program to an outside agency. In my paper and in my proposal I suggest to you that that's an inappropriate step from a policy perspective. Ensuring that children are properly supported and that there is accountability for children from both parents is and should be a government responsibility and should continue to be a government responsibility. There's a lot more detail about that in my paper.

The other issue of concern to me is what I call the change in focus of the program. The program seems to be being shifted in a direction that is basically structured so that it's easier to enforce orders. In other words, a lot of the hard-to-enforce orders are being removed from the program as a result of initiatives that are contained in this bill. That's referred to in some detail on page 3 of the paper, where I list some of the items that will result in a smaller pool of support orders being enforced, things like allowing the director to refuse to enforce orders, removing enforcement against estates from the program, allowing for voluntary withdrawal of orders from the program, that sort of thing.

I urge you to seriously consider that step when you're looking at this bill. The purpose of the program is in effect to enforce the hard-to-enforce orders, not just to do the easy ones. We didn't need a government program, with this kind of investment of money and time and



effort, to enforce the easy ones. Those are the reasons the program was designed to begin with. Also, I'm very concerned that some of the consequences of the amendments will be to really improve the statistics for the program. That is a goal the government should not be at all concerned about. The program's success or failure is not solely based on how much money is outstanding or how many orders are in default. It's also based on whether we're changing attitudes towards the payment of support and whether there's an improvement in the compliance rate, not just the bald compliance rate all by itself.

I'll launch into a couple of other points in the paper. The discretion that's been given to the director in the bill to refuse enforcement is a worrying discretion, mostly because there is no mechanism in the bill to allow either party, but particularly to allow a recipient, to have that discretion reviewed by somebody else. If the director makes a decision to refuse to enforce an order, the recipient is stuck with that decision; there's nowhere else she can go. She can't even go to court, for example, to force the director to enforce the order. I've set out on page 3 of the paper several permissible categories of refusal that I suggest to you are problematic and I've given you the section numbers for reference.

I'm also very concerned about the notion that there could be voluntary withdrawal of orders from the program. One of the things that was great about the program in 1986 and that was made even stronger in 1992 with the addition of the support deduction orders was the mandatory nature of the enforcement program. Many women who are leaving family-law situations, whether they're married or not, are vulnerable to pressure and coercion. Some of them have been assaulted. It's not appropriate to put them in positions where that kind of pressure is available. This kind of situation happens a great deal in family law.

Also, the stats that come out of the program about the current withdrawal system really give an indication to you about why the current system should continue. The current system says you can't suspend a support deduction order on the consent of the parties unless you meet certain very restrictive criteria, one of which is that you deposit four months of payments with the program. Interestingly, only about 2% of parties in support deduction orders actually do that, and the plan's data are that in 98% of those cases, there is a default and the four months of payments deposited have to be paid. So there is a reason that people are not permitted to opt out, and I'm urging you to reconsider section 16 and the voluntary withdrawal from the program.

There are several other smaller points in the paper that I'm not going to go into detail about. I'm concerned about the changes to the name of the program and the name of the act. The name of the bill is unnecessarily cumbersome. I hope you can think of something better in committee. Also, I'm quite concerned and confused about to why you would take the words "support" and "enforcement" out of the name of the program. It's misleading and probably not helpful to the public, and many members of the Ontario public will deal with this program,

particularly as long as the support deduction order continues in effect.

I've got some comments in the paper about whether there should be rules made through the regulation process and about the lottery winnings and a few other points, but the last thing I want to touch on in my presentation, because I want to leave an opportunity for questions, is the issue about charging fees, which I suggest to you is part of the issue of privatizing the process but has a life of its own, if you like.

While it may be appropriate to assess fees for the purpose of ensuring that the people who caused the system to exist pay for the system, it's not appropriate to assess fees that are paid for out of child support payments and it would not be appropriate for any fees to be paid by support recipients. The bill is a little fuzzy on that, quite frankly. It suggests that fees might be added on to the support arrears and might be collected at the end of the support arrears, but there's another section of the bill that suggests that the costs of the program for things like extra Xeroxing or providing extra copies of court documents might be paid by support recipients.

The compendium makes the analogy to other government services. This is not like any other government service. This is a service that collects child support; 40% of the case load in this service collects money that is owed to the government, either to the Ministry of Community and Social Services or to municipalities. That is a very significant aspect that need not be overlooked.

I'm not going to go through any more detail on the paper, but I'm happy to discuss any part of it. I'm sorry it's getting to you late, but as the Chair indicated, I got phoned at 10:30 this morning, so I'm just glad to be here.

**The Chair:** Thank you very much, Ms Curtis. We have three minutes per caucus, and we'll start with the government caucus.

**Mr Garry J. Guzzo (Ottawa-Rideau):** Thank you very much for your presentation. Let me tell you that it's always a pleasure to have practitioners take a look at this and I commend you for the slant you have adopted. You mentioned that you did some enforcement work prior to the act. Do you still do enforcement work?

**Ms Curtis:** A little bit. Yes, I've done some work for the plan.

**Mr Guzzo:** Would you mind telling me, with regard to the legal aid coverage here in Toronto, is that still covered? Is it easy to get a legal aid certificate for enforcement proceedings or is it something they try and slough off to —

**Ms Curtis:** There is no legal aid for enforcement right now. The legal aid plan right now is so restricted that legal aid is only available for two sorts of categories: one is if there's a risk of harm to a spouse or a child, and the other is if there's a risk to an established parent-child bond.

**Mr Guzzo:** But there is duty counsel at family court on default days or on enforcement days at all times.

**Ms Curtis:** Yes, there is.

**Mr Guzzo:** All right. Do you have a copy of the bill in front of you? Would you take a look at 41(9), I believe it is, in the procedure section on default hearings?

**Ms Curtis:** Powers of the court?



**Mr Guzzo:** That's right. What I'm asking you is, is that a reverse onus section, as you read it? If it is not, should it not be? From a practitioner's point of view, once it's established that there is a default, should the onus not immediately shift to the payor to satisfy the court?

**Ms Curtis:** It does under the current legislation, as I'm sure you know.

**Mr Guzzo:** In some jurisdictions it does and in some it doesn't. This is no change from what's existing. As far as you're concerned, I know it does here in Toronto.

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**Ms Curtis:** It certainly operates as a reverse onus in practice, and I don't think this wording is different from the current —

**Mr Guzzo:** It depends on whether you practise in Toronto or Kingston, if you want to know the truth. I can tell you right now that it doesn't in Kingston or in some other jurisdictions.

**Ms Curtis:** Default hearings were meant to be a reverse onus situation. You're quite right about that.

**Mr Guzzo:** All right. I thank you for your presentation.

**Mr David Ramsay (Timiskaming):** My question would come right after the first question of Mr Guzzo. I share your concern also about section 7 and the director's discretion to drop a file. You just mentioned briefly what recourse the client should have, and because it's difficult or impossible to get legal aid, what should be the review mechanism? What suggestions would you have for us, if we're to move an amendment, that could be the review mechanism for a client?

**Ms Curtis:** My first choice would be that the director not have this discretion. The director currently doesn't have this discretion. Unfortunately the discretion was put in to allow the plan to improve its stats about orders that aren't being enforced or are difficult to enforce. That's my threshold position.

If this discretion is going to stay, the thought that came to me as I was reading this was the discretion that's given under the Child and Family Services Act; where the director of a children's aid society, for example, makes a decision a family is unhappy with, the family has the right to have that discretion reviewed through a variety of different processes.

Certainly, if this kind of discretion is going to stay in the legislation, there needs to be protection for the recipient so that she has the right to have it reviewed either by an administrative step or in the courts. Giving the recipient the right to go to court over this right now isn't much of a gift, because she won't get legal aid to go to court. She'll be doing it by herself.

**Mr Ramsay:** You mentioned the name, and if we want to change the culture, maybe getting it out there that it's a family responsibility in a sense a positive way, I just suggest. I haven't really thought about it too much, but you'd rather have more of the enforcement name up front.

**Ms Curtis:** It was interesting, in 1986 when the program started, that the first two or three directors of the plan, in all their public presentations, talked about how important it was to change attitudes, that the goal of the

program was to change attitudes. The improvement in the compliance rate in 10 years has been about 10% or 15%. It's pitiful. I think changing attitudes may be a longer-term goal. What we really need to do is collect that \$900 million worth of arrears that is owing. We need to not be pussyfooting about the fact that this is an enforcement program and that it's enforcing child support.

**Mr Ramsay:** Thank you very much.

**Mrs Boyd:** Thank you very much for your presentation. You mentioned in passing the issue of removing enforcement against estates. We're quite concerned about that as well. If it said "after the estate is dispersed" it might make more sense, because that's the rationale given in the compendium, that often the estates have been dispersed.

But there's another issue here, and this is joint property or where someone is in a joint tenancy situation. Ending enforcement on death means there is no enforcement around joint tenancy equity. That often is a very serious matter. Would you comment on that?

**Ms Curtis:** I hadn't even gone that far with it. I was more concerned that the compendium suggests that the recipient in an estate situation has other remedies than this program. That's true, but they all involve going to court. Why should she be in a different position than somebody whose payor spouse is still alive? I can't help you with the joint tenancy.

**Mrs Boyd:** In terms of the issue you raise about closure of files, the minister has said a number of times that he and the plan regard \$450 million to \$500 million of the outstanding arrears to be uncollectible. What's your comment on that? What does that really mean for people who might suddenly be deemed uncollectible because somebody is too far away or has been gone too long?

**Ms Curtis:** I'm not certain of what criteria were used in coming up with that number, but if they were anything like the criteria in section 7 of the act, some of them are pretty soft criteria.

For example, in 7(1)(a), if "the amount of the support is nominal" — I'm very concerned about "nominal." In whose view? One hundred dollars may be a very significant amount of money to a support recipient, and a director may think that's a nominal amount. If "arrears of long standing are owed" they can close the file. Frankly, those are the hard orders. We shouldn't be closing the file on those. That's what this program is there for. If the whereabouts of the payor can't be reasonably ascertained, that's what the government agency is there for, to use its resources to find the payor, and if they can't find him this year, that they try and find him next year and the year after.

This is a great revenue-generating opportunity with respect to money owed to the Ministry of Community and Social Services, so there's no reason to just walk away from many of these orders.

**Mrs Boyd:** That's very helpful. Do you know of many orders that would get lost under the part of this act that takes away maintenance of a home under an order that gives preferred occupancy of the house to the custodial parent? Do you have in your practice any people who have outstanding orders that probably were issued right



after the Family Law Act changed in 1986 that would simply be closed as a result of this?

**Ms Curtis:** I don't, off the top of my head, but some of the shifts in the bill about what will be enforced, what the program will be willing to have enforced, will result in changes in the way we all do our business, which is not a bad thing in and of itself as long as people get advance notice and are not prejudiced; for example, that they won't enforce third-party payments which might be a payment to a day care, which might be the mortgage payment, which might be a payment to an insurance company. It certainly requires all of us to change that so that people aren't prejudiced.

**Mrs Boyd:** It would require variations, where that is now in an outstanding order.

**Ms Curtis:** It absolutely would, and the committee should be aware that legal aid is not covering variations right now. It's not going to cover them during the term of the memorandum of understanding, which is between now and the end of March 1999, because there's simply no money for that. Any variations that result as a passage of this new bill, for example, the licence suspension thing, might produce people wanting to go to court. They will be unrepresented litigants going to court. Legal aid will not assist those people.

**The Chair:** Ms Curtis, thank you very much for your presentation here today.

#### SECURING ONGOING SUPPORT

**The Chair:** Our next presentation is SOS, Securing Ongoing Support, Loretta Clipperton and Barb Garon. Welcome. I take it you had a safe journey.

**Ms Loretta Clipperton:** Yes, we did. Thank you.

**The Chair:** Excellent. All members should have received a written brief, I believe. If you would proceed.

**Ms Barb Garon:** My name is Barb Garon. I'm a member of SOS as well as a representative of the Sudbury Women's Centre. I come before this committee today in support of SOS.

SOS welcomes the opportunity to make submissions to the committee studying Bill 82, but notes the irony of making those submissions in the present era of crisis in the functioning of the family support plan.

SOS is a Sudbury-based organization of persons, mostly women, who are dependent on the family support plan to enforce the support orders needed to ensure adequate income for themselves and their children. What has brought them together are recent changes in the functioning of the plan, namely, the closing of the regional offices, including the Sudbury office, and the reduction in the number of staff. As a result many of them have not received the support that has been deducted from the support payors' incomes or have never had their orders processed at all.

**Ms Clipperton:** We are concerned with our inability to get through either by phone, which is a 1-800 number, or to bureaucrats and policymakers. We prepared this presentation under extreme personal sacrifice and are here, miles from home and family, to speak about sections in Bill 82 which we know will not ensure our wellbeing, nor will they meet the standards around which

Bill 82 is designed, specifically to protect the interests of women and children.

We are not nameless, faceless dregs of society. Most of us are women who find ourselves in positions none of you would ever want to be in. We are from every walk of life: mothers, sisters, friends, nurses, secretaries, teachers, even bureaucrats and politicians. We carry large burdens in the best of times, but when our families break down we are expected to find new ways to continue to make life work with everyone.

Our burdens become so big, so breaking, that even if everything else works well we would need help coping with new demands, fears and terrors. We end up at the mercy of unjust, oppressive and at times corrupt justice systems. We have no choice. Either we do nothing or we find ways to salvage our self-respect, our dignity, our reasons for being.

#### 1600

There was some hope in the family support plan. It may not have been perfect, and a large number of spouses were not honouring their responsibilities, but at least we believed we had a place to go when troubles hit. We had files, we had case workers, we had sanctuary in knowing that we existed in a system that was working with us.

I'd like to refer you to some schedules that are attached at the back of our presentation. They are excerpts from Bill 82, starting with subsection 4(1): "...any person, agency or body." We question why this section would be necessary. Why do you plan to move jurisdiction away from the justice system? Why jeopardize the ability of individuals to track responsibility? The Family Responsibility Office wants to shuck its own responsibility immediately. We believe that decentralizing the administration of Bill 82 reduces its power. This cannot strengthen the law.

Subsection 4(2): "...instead of the director." How many more levels, how many more targets will we have to identify before we can find someone who will listen, who will care about a broken system?

Subsection 4(3) and paragraph 63(i): How much will this cost the recipient? We do not have much money now. We cannot bear any more costs. We are the most vulnerable. Why would our government hand over our cases to an even more disinterested, detached assignee who will only look at the bottom line? We need to be protected, not fed to the lions. If you must privatize, why not allow the recipients to form a co-op to handle the affairs of the assignee?

Subsection 16(1): An order "may be withdrawn at any time." Never, and under no circumstance. Coercion is such an instrument of terror. It can be so subtle, goodwill extended in a velvet glove, only to have the iron fist raised to our faces at every turn. This program does not waste taxpayers' money; it saves it. No one should be exempt. Keeping the payment system mandatory ensures that there will be no personalizing it, no power, no plays, no coercion.

Some individuals are offended that their integrity is compromised by being forced to make their payments through the family support plan. Currently they are only required to participate if there is a court order against



them. Surely, if the court must issue an order, then enforcement is necessary. This should not be optional. Better the security of all than the discomfort of a few.

On my second page of excerpts from Bill 82 I allude to clause 7(1)(a): "nominal." Who will define this amount? Will it be consistent for everyone? Twenty dollars, \$30, \$50 can buy a week's groceries in my house. "Nominal" keeps the file open until circumstances change.

Clause (c): Perhaps this committee and all concerned parties should refuse the enactment of this bill in its entirety as the meaning or intention of mini-sections of this bill are ambiguous and unclear. I refer to 63(1): "The Lieutenant Governor in Council may make regulations...prescribing anything that is required or authorized by this act to be prescribed" — pretty ambiguous to me.

Clause 7(1)(d): "arrear of long standing." Is this a term to be conveniently used at the discretion of the director, when notifying the payor and the recipient that the support order and support deduction order have been withdrawn?

If you refer to schedule 2, Tiina's story, Tiina is from Sudbury. For years, Tiina received funds from FBA. The payor was untraceable. She secured employment and finally was able to support herself and her three children. In July of this year Tiina was advised by the Sudbury regional office of the family support plan that the payor had been located. Over \$100,000 in arrears had accumulated. Now moneys are being returned to the treasury and Tiina has received her first support cheque, a cheque for over \$7,000, her first cheque in seven years.

Does this subsection mean that a payor can rebuke his responsibility if he can avoid getting caught? Is it acceptable to break the law so long as you don't get caught? These certainly are not the values I want to instil in my children. Why should they be imposed on us?

Clause 7(1)(e): The recipient must "provide the director with accurate or sufficient information...." Does this include the payor's place of employment? Are they alluding to the fact that the recipient must trace and locate in order for the director to enforce, as I had to do?

Clause 7(1)(f): "The whereabouts of the payor...cannot be determined...." I was informed that it was up to me to provide the name and address of the employer of my ex-husband. In October this was sent by fax by my MPP's office to the Downsview office of the family support plan. Eight days later this information was still not in my file. Is this not a primary objective of the family responsibility office, to trace and locate?

Clause 7(1)(l): "Enforcement...is otherwise unreasonable or impractical." This leaves too much discretion to the director. It appears to be a convenient way to terminate enforcement at one person's volition. Please assure us that this is not a direct intention to save money at the expense of the recipient.

In summary, this whole section provides the director with the choice to enforce or not to enforce an order of the court. The director will have the power that supersedes and indeed extinguishes orders of the court. Why have a court system at all? Why would a family enter the system at all? Does a warden have the right to refuse to incarcerate a prisoner?

If the act can protect the sanctity of the Ministry of Community and Social Services, that is, guarantee that they will collect, should this service not be extended to the individual on whose behalf this ministry also exists? We are not here to serve you but for you to serve us. The government's reason for being is to protect the interests of all citizens, not just other government ministries and agencies. Most especially, our government should not be entrenching more systemic discrimination into the law. Women have fought long and hard to secure extremely limited rights. To see this government deliberately and without conscience extinguish those gains is cause for grave concern.

We challenge the members of the panel, the members of the Legislature and all citizens: Consider walking in our shoes. This is Ontario. We used to be working at being an enlightened province. Enlightenment includes equity, fairness and justice, balance and so many other ideals. Even if we look at these few — equity, fairness, justice, intelligence and balance — can we see them lived out in Bill 82?

Some will argue that we can't have everything. We never have had everything. Sunday, December 1, 1996, marked the 41st anniversary of Rosa Parks's protest against moving to the back of the bus because of the colour of her skin. We appeal to this committee: Do not make us sit in the back of the bus just because of our circumstances.

**Ms Garon:** SOS therefore asks this committee to amend Bill 82 by removing sections 4 and 7, clause 57(1)(d), subsection 58(2), clause 63(i), and rewording section 16 to meet its concerns. In addition, SOS recommends strengthening part V of the act by extending it to all licences and permits issued by the province or bodies under its jurisdiction.

The regional municipality of Sudbury has also requested that we deliver to this committee further documentation which has been presented to the clerk and should be in your packages.

On behalf of SOS, we thank this committee for permitting us the opportunity to be heard on this important bill.

**The Chair:** Thank you very much. We only have two minutes per caucus.

1610

**Mr Ramsay:** Thank you very much for your presentation and for coming down from Sudbury today. We really appreciate your input.

I'd like to get a clarification on something you brought forward from the parliamentary assistant, if I could. When the Attorney General made his presentation yesterday, he did refer to section 7 and he said he would be amenable to some changes. I was wondering, Mr Tilson, was it just on clause 7(1)(d) that he was amenable to it or was it all of subsection (1)?

**Mr Tilson:** I think that the Attorney General has indicated he's prepared to consider amendments to section 7. I think he's looking forward to that time in the committee hearings for that to be done. He may or may not have some amendments that he wishes to file himself, but if members of the Liberal caucus or New Democratic



caucus have some suggested amendments, I know the government will consider those amendments.

**Mr Ramsay:** You certainly give us more food for thought here, that we would be bringing forward some amendments to address these concerns. I think we would try first to delete some of those sections, for sure, and then maybe our backup position would be to find some sort of review mechanism, as the previous witness had asked for. We really have to think hard and long about that because we want to make sure that it's simple, and of course, with no cost, because under these circumstances we're going to have to make sure it is a very simple system. So we'll certainly be looking at that, and thank you for your presentation.

**Ms Shelley Martel (Sudbury East):** Thanks to the two of you for coming and for putting together this presentation for us. I want to focus on the issue of opting out, because it was a concern that any number of us from the New Democratic Party raised in the debate on Bill 82. I'm looking at your page 7, where you go on at some length about your concerns. I wonder if you would tell the committee again why it is that you are concerned that this particular section is in the bill and what you think it might result in.

**Ms Clipperton:** I know my first support payment was delayed because my husband came and said: "My car broke down. I have to pay for my repairs first." Am I supposed to sympathize? "No, you can't see the kids unless you give me money."

There is too much play with money. Money is the cause of power. Whoever has money has power. Whoever's holding the money has the power. We've seen the bruised faces. In the opting out, because there are no front-line offices, when the written request is received with both people's signatures on it saying they'd like to opt out, you have no way to know what bruises are on the face or on the hand that wrote its signature on the bottom of that page. For orders that have been issued before the judge has a chance to say that this order should never have been withdrawn or this order may be withdrawn, those at least should not be allowed to be withdrawn, but why should we show any difference between people? If everyone is filing, then in the employment world — as a bookkeeper doing payroll myself, I would not know, when the support deduction notice comes in, what the circumstances are of that payor. It leaves anonymity, it leaves confidentiality for the payor.

**Ms Martel:** Part of the concern I have is that we received a document from the family support plan on Friday, and I believe that all members received it yesterday. It was a new action sheet that the family support plan is using when they get a call-in from an MPP or when they get a call-in from a recipient. What bothered me about the document is that at the bottom of it, it asks for the reasons for the inquiry, and the family support plan staff person is supposed to check one of those off. It says "late payment," "arrear," "enforcement" or "opting out."

I'm concerned that this new action sheet, which just went out from the family support plan on Friday, means that the Attorney General isn't interested in hearing about people's concerns about opting out, but I think those

concerns are valid. I think those concerns are very legitimate. Frankly, I'm not convinced that the method to stop coercion which he outlined, which is basically through the court, is an alternative or an answer for most people. Who's going to pay for that? If you can't get legal aid, who deals with those kinds of things? Why should women be forced back into court? I'm asking that question to you because I really hope the Attorney General will listen to your comments and listen to the comments of others who I think will come and express similar concerns. It's a serious issue.

**The Chair:** Thank you, Ms Martel. We must move on.

**Mr Tilson:** Thank you for coming and telling us your concerns. I know the government will consider your concerns. One of the issues I'd like you to speak to — the government has expressed concern and I think members of the NDP and Liberal caucuses have expressed concern with respect to the current enforcement proceedings, that they are inadequate. This bill has made substantial changes, as you know, to the enforcement provisions. I don't know whether you have any comments for or against some of these provisions or want to elaborate on some of the things you've said. One, for example, is the redefining of income source. That's section 1, the definition section of the bill, which catches such things as wage supplements, commissions, bonuses, vacation pay, annuities, those sorts of things, and it goes on. That's just one of several changes that we believe will beef up the enforcement section. Do you have any comments on what the government is trying to do with this bill?

**Ms Clipperton:** We strongly endorse the enforcement measures that are spoken of in Bill 82. Income source, including bonus — coming from a mining community, many miners receive bonuses; Falconbridge and Inco — and commissions with our salesmen, these are very welcome changes to the bill. As we mentioned in our report, there are only a few things we want changed: section 4, section 7, section 16, any references to fees.

Please don't take money from us. By taking money from a payor, you're also taking money from the recipient, because it's less money the payor has to give to the recipient for the recipient to use in raising her family.

**The Chair:** I thank you both very much for your presentation here today.

ELAINE HOLGATE

**The Chair:** Our next presenter is Elaine Holgate. Ms Holgate, welcome. I'd ask you to proceed with your presentation.

**Ms Elaine Holgate:** Good afternoon. Can you hear me? My voice is going.

For the justice committee hearings regarding Bill 82, good afternoon, honourable members of our provincial Parliament and other guests today. I'm very appreciative of your listening time today, yet I can only be honest when I say I've been apprehensive as well. Writing down my feelings regarding this topic of deadbeat dads has been difficult. To express on paper as well as talking about it in an open forum incorporates so many emotional facets in my life as a single parent.



I'll just begin by saying I'm exhausted. I'm exhausted waiting for child support. I'm exhausted waiting to see what justice means, and I'm not alone. Can we all listen to the definition of justice? Take a moment to just hear the meaning of the word that cannot seem to become reality for some of ourselves here today. Justice means the administration of what is just, it means the administration of law. Being just is defined as morally or legally right. Words connected to just are "correct," "proper," "honourable," "conscientious," and one very important word I thought was "honesty." So I'm exhausted waiting to see what justice means while I wait for child support for four children through our justice system today.

Why are we ladies here today in front of this committee? We want to see justice. We want desperately and need Bill 82 brought forth as law. We cannot go forth another day without the financial support for ourselves and our respective children. Their future is as important as the future of families with both parents present. Bill 82 will give them the chance they need for an economically brighter future. In most cases, these children still have no father to replace the dad who went away, the father who didn't even say goodbye but decided to leave their home, their nest, which was feathered from birth.

1620

We have here today mothers that can only be called courageous, unselfish, patient, determined, loving, kind and long-suffering individuals, but also women who deserve to be called some of the world's best moms. You know why, and you can probably guess why. We do double duty around the clock. We not only try to provide warmth, shelter, love, attention, food, cookery, cleaning, washing, homework helper, chauffeuring, school meetings, hockey practices, emotional support, direction, discipline, lunches, supper and nighttime stories and so forth, but when there's an absent father, we try to fill that second parent's spot.

The sad scenario is that all these special works and necessities that single-parent mothers perform are all duties performed without a budget, because there are very limited funds available, very little money, in fact no money at all in some cases.

We rely on friends, even though we hate to. We rely on family, even though they don't have enough funds themselves. We can accept donations from strangers who are a generous spirit at Christmas time. I have been in this position of accepting from people I have never met before and sometimes feel uncomfortable at times but appreciate their kindness and Christian spirit. I would not be here today if it wasn't for good friends.

I feel humiliation when I work the night shift to feed my children and drive home with my gasoline tank bouncing on empty. You fill the tank at a 24-hour gas bar to find out that your bank card has a zero balance. You quickly make an acceptable explanation for your embarrassment and go back later to pay the attendant with borrowed money.

This feeling comes with a single parent with no child support. This feeling comes when you ask for a food voucher to feed your children because you didn't make enough money to pay the rent as well as buy them milk. You are counting the cost of your items in the food

basket hoping you don't go over the food voucher cheque.

You take your children to the dentist after two years with no checkups and no benefits. All four children need dental work done, since they were telling you for some time that their teeth hurt after eating certain foods. The bill comes to \$518 and is now outstanding. You direct the bill to their father's address through the dental receptionist. She tells you a week later that the deadbeat dad doesn't know how the dentist got his address and, no, this isn't his bill. Each of his children's names are itemized on that bill. This deadbeat dad left us two years ago, and we still have not received any regular child support payments accorded by two court orders in front of two judges in the family court system of Ontario. Both judges each time said that the father in question had the capacity to pay and believed he was making good money.

I had a diligent lawyer who represented me for most of these past two years, and I had her through the legal aid system. She wanted to see justice served for my child support case. Our last and final attempt was a separation agreement in May of this year. This was filed in court and also was completed so an expensive trial could be avoided.

There were considerable child support arrears at this time, approximately \$85,000, so we spread it over a three-year period in the agreement. The children and I still have not had this agreement honoured to this day. This is an agreement based on this man's salary. This is a responsibility that he can and should abide by, but he doesn't. Why? Because he can't afford it? No. Because he doesn't want the responsibility? Yes. Because he has no conscience? Yes to this one.

Maybe deadbeat dad can be substituted with different phrases, such as lowly swine, cold reptile and a slippery sucker, as he slips through the cracks of our justice system. These dads who don't pay child support don't really care, because they know they can get away with it.

Will Bill 82 help? I hope so. Most of us here supporting it want and desperately need it. We desperately need a hand from the government, through the Attorney General's office, so we can receive these funds for our children to live as they are entitled to.

Up to this day and until this bill is passed and in force, I had no other avenues to take. I have no legal aid assistance at present and cannot afford a lawyer. There have been two court orders, two writs served, and a one-to-one contact with him through the family support office but no child support. I have a 10-year-old car that I'm using that has no heater and needs new brakes and new tires. The children and I were evicted from our house two years ago, and we presently are renting.

I have a very good part-time job and work many night shifts. However, I have five of us to support with these wages. Two of my children have special needs. I have a son who has autistic tendencies, and I have one daughter who has had three neurosurgeries.

Our deadbeat dad avoids his child support by hiding behind the cape of someone else. They live in a \$350,000 home with a three-car garage. Last year they enjoyed a white Cadillac. They have two vehicles now, one Ford Explorer and now a Buick Park Avenue, brand-new.



While I was busy this summer avoiding two disconnection notices, gas and hydro bills, he was serving filet mignon to our daughter on their boat on Georgian Bay. I worry about milk money; he has a credit card. I wait for our child support and worry about the children's shoes for school; he cries poor while tapping on two brand-new \$4,000 IBM computers in his home.

We have been seriously lacking in enforcement status at the family support offices. With Bill 82, any joint bank accounts can be tapped and hopefully as well any shared residence. The driver's licence and credit cards being revoked will be a slap on the knuckles that only can be for the best for me.

With this bill, we will have food on the table without food vouchers, and we will know our rent will be paid for sure. Finally, I will not have this sick feeling of despair when the kids are sleeping at night wondering where the funds will be coming from.

We can only say that if the Attorney General's office can act on our behalf with this bill and through this provincial Parliament accepting Bill 82, we can only be eternally thankful to Charles Harnick for being a worthy and honourable advocate for many children of single parents, and we can all finally see that our legal system is built on justice.

**The Chair:** Thank you, Ms Holgate. We start off with Ms Boyd. We have three minutes per caucus.

**Mrs Boyd:** Thank you very much for coming. I know it's very difficult to do this kind of thing in public. I certainly hope that the provisions in this bill will result as you hope they will as well. I think you know that there's a commitment on the part of all three parties to get these enforcement measures into place so that they can begin.

I'm curious, though, whether your former partner is self-employed and whether or not there was no support deduction order that accompanied your court order.

**Ms Holgate:** He's in real estate. There was a support order sent forth to his employer.

**Mrs Boyd:** But they're sheltering the income, I expect.

**Ms Holgate:** They're sheltering it in her name.

**Mrs Boyd:** That's the most common kind of a situation, isn't it? It's the most discouraging.

Some of the concerns we have are around things like the opt-out provision or the refusal to enforce. I'm curious as to whether you think those particular provisions of the bill are protective of women in your circumstances. Do you feel that it's possible that people might be coerced into agreeing to opt out of the program, as the previous speakers did? Are you concerned that the director might refuse to continue with the order?

**Ms Holgate:** Am I worried about someone being coerced into opting out of this?

**Mrs Boyd:** Out of the family support plan.

**Ms Holgate:** I think that could happen, definitely. It depends on the relationship, when you have more communication than I have, probably.

**Mrs Boyd:** Would you prefer to have this so that you don't have to have communication with your ex-partner over money?

**Ms Holgate:** Oh, definitely, yes.

**Mrs Boyd:** You'd like to see everything done through the director of the plan at all times on the money issues?

**Ms Holgate:** That's the only way that it could be done, for me.

**Mr Tilson:** Ms Holgate, we know how difficult it is for you to come here. I'm sure all members of the committee will agree that yours is the type of case — the situations you've described show how the legislation cries out for change with respect to enforcement. Irrespective of our political differences in this room, I think we all agree that change is needed. You talk about the emotional difficulties of all parties, both spouses, particularly the children. I don't know what sort of legislation can solve all of that, other than to give the financial relief that you're requesting.

1630

I did ask a question, which I'm sure you'll be pleased with, to the previous delegation that was before us with respect to the expansion of income source, which means it's really directed towards the self-employed individual or the person who gets lump sum payments. You seem to be fairly knowledgeable about some of the other enforcement provisions, the suspension of drivers' licences and some of those other sorts of things. In your personal observations or personal problems or people you've spoken to who are in similar plights to yours, are there any other types of tougher enforcement that could be followed?

**Ms Holgate:** I think if they're not self-employed, with the enforcement incoming at their office, this should be done with the enforcement coming from the government to the direct employer. It would have to be followed through, though.

**Mr Tilson:** One of the things the government is trying to encourage, of course, is the direct payment by the employer to the plan, in other words, through electronic transfer, because generally one of the problems of the plan to date has been the manual completion of checks, which has caused delays. That's one of the things the government is trying to encourage or trying to develop, a system of direct transfer, particularly from the larger firms.

I thank you very much for coming and offering your concerns. The government in particular will listen to your concerns.

**Mr Ramsay:** Ms Holgate, I have some questions too. First of all, thank you very much for coming also. We really appreciate your coming forward. We understand and realize how tough it is, but I think your coming forward is going to help us make this bill even better.

I want to specifically ask you, do you know the mechanism of how your ex-partner shelters that income, how he gets it paid? Does he get it paid in his name or in his new partner's name? How does he do that?

**Ms Holgate:** From what I can gather, with the real estate it's a dual listing, both names were put on the sign. Apparently, with one sale she got the complete commission, but it should have been split. The enforcement would have to be with the employer there. But I don't know; it's like a magic act.

**Mr Ramsay:** I wouldn't mind being able to ask one of the government officials, in that situation, is this act going to be able to rectify that problem? You heard that a real estate commission was not being split but paid to

the other party so that the partner was not actually receiving the money. Is there any way we could work that out with the employer to get that money?

**Mr Goodman:** We could attempt to, but I'm not sure about when it's jointly on that basis, because it does apply to joint bank accounts, not to the joint debt. But there are changes to the definition of income source which would allow us to get a lot of commission sales by removing the requirement that they be regular, periodic payments. That will allow us to attach those payments, especially from a real estate agent, who has payments at different times but they're not regular and periodic. So there are changes that will assist on that basis.

**The Chair:** Thank you very much, Ms Holgate, for attending here today. We appreciate your advice.

### ILENE MCGILLIS

**The Chair:** Our next presenter is Ilene McGillis. Welcome.

**Ms Ilene McGillis:** Thank you very much for inviting me. It's been a long road to this committee, and I'm very pleased to be here. I am just going to read the first two pages. The rest of it is backup and proof to what I'm saying.

A co-worker of mine recently purchased a new car, but he could not get ownership, licence plate stickers or insurance. The problem? Some \$900 in unpaid tickets and fines.

Support payor Donald McGillis currently owes \$70,000 in court-ordered family support accrued over the last six years. During that six years, he has conducted a fairly ordinary financial life — back and forth across the border with the US; bought, sold and rented vehicles; arranged at least one mortgage for a condominium; opened and closed bank accounts; used credit cards; and held various jobs — except that he has not paid support for his children. This is financial abuse in anyone's definition. His family has not conducted anything close to an acceptable financial situation.

The past six years have been extremely difficult for me and my children. Fear, anxiety, low self-esteem and psychological problems leading to suicidal tendencies in one son are just some of the problems manifested in these financially and emotionally poor children.

I contacted the family support plan in Whitby, but I received no replies. I finally got a letter stating that I had better register with them or they could not guarantee their services. Obviously, they had lost my original application. I already had a case number.

I reapplied and my problems started. I contacted then Premier Bob Rae and Attorney General Howard Hampton. I tried for two years to speak to Carman McClelland, my MPP. I got no money and went deeper into financial ruin. I lost my home, filed for bankruptcy, waited five years on a three-year waiting list for subsidized housing, and applied for social services — and that stigma nearly destroyed me and traumatized my children. I had no home, no credit, no money, no hope and three children to take care of.

This family support plan had failed to carry out its purpose "to increase the number of cases receiving

support regularly and allow the staff to focus on tougher cases." This quote is from a letter received by me from then Attorney General Howard Hampton, February 4, 1992.

A little hope came in the form of a group whose members had startlingly similar experiences: FAD, Families Against Deadbeats. This group started as a think tank about the problems, possible solutions and a plan of action. We set out to gain the support of and work with the levels of government to overhaul the family support plan and get support money for the children of deadbeats.

The provincial election of June 1995 brightened the future considerably. Members of the Legislature listened to our problems and started the wheels in motion to solve our problems. The result of the efforts of FAD and the current government is Bill 82. I personally was finally able to hope for my children. Someone really cared to listen and act for them. Bill 82 must become law regarding deadbeats and their familial responsibilities.

Bill 82 must be made common knowledge to all support recipients and deadbeat parents. Our children should be made aware of it. It will give them hope for a better life, nicer clothes, better self-esteem, better nutrition, self-worth and a happier life now and in the future.

Bill 82 will force deadbeats to realize that children are not disposable. They do not stop getting hungry or cold just because they no longer care. I wonder if my children's deadbeat parent has any outstanding tickets or fines?

The rest of it is a very hot, hot newsflash, and you're all going to be pleased. I received a letter on Monday of this week. It was addressed to me, care of my lawyer. It was from my children's father. After five years of no contact or support to speak of, he offered to help and he even supplied an address. I wondered for only a split second, then I realized that he may have heard about Bill 82. Is he one of the first deadbeats, at whom this bill was aimed, to come forward? Is he trying not to have his licence suspended or have his credit destroyed? Is he afraid of collection agencies? I guess so.

This is a major development in my case, but I point out that it is the bang that Bill 82 needs to really get launched and drive home the whole idea of its coming into being.

I have attached to this writing some of the correspondence between myself and some of those persons I thought might help during the last five years. I can assure you, nothing worked before Bill 82. Read and find out for yourself.

The arrears have climbed to \$70,000, excluding interest, court costs and my financial losses. Let's all hope that it grows no higher. That's an awfully high mountain for any child to climb.

**Mr Guzzo:** Thank you very much for your presentation. Like you, we hope it's a start, but we're not unmindful of some of the areas that have been outlined and addressed here where improvements may have to be made.

Could I ask you, first of all, the nature of the work that the father of the children does?

**Ms McGillis:** Up until six months before we separated, he worked for the government of Canada as an immigra-



tion officer. The last six months he was in a private distributorship. I had a letter from his employer that he would be making \$100,000 a year. His employer was ordered to garnish his wages and the employer said, "He owes me money. He took draws on commissions and he owes me too much money to be garnishing wages," so he didn't garnish.

**Mr Guzzo:** Thank you very much for attending.  
1640

**Mr Tilson:** The addendum to your letter is interesting. We believe that even the threat of these enforcement measures will bring some of these people to their senses. For example, if one has the trouble of finding a deadbeat person — generally it's a man — one way is through the driver's licence because we know the address on the licence. If a husband isn't responding, it can be through the driver's licence. It is interesting that you make this comment, that the very threat of some of these things can spur individuals into (1) telling them where they are and (2) becoming a little bit more cooperative. I wanted to thank you for that observation.

**Ms McGillis:** This letter was dated November 22. It may be just coincidence. The last address we had was Portland, Maine, in the US, and now he gives us an address of Elm Street.

**Mr Frank Klees (York-Mackenzie):** Thank you very much for that good news. It is indeed a great way to launch this, and I'm sure it's even better news for you.

**Ms McGillis:** I hope they act on it.

**Mr Klees:** Actually, Mr Chair, my question is to staff. Ms McGillis brings out a very important point, that is, that there is obviously cooperation sometimes between an employer and an employee. I'm wondering if we have addressed in this bill the kind of manipulation that can take place. If we haven't, it's obviously something we should look at.

**Mr Goodman:** In fact we have. If you look at the definitions in clause 1(1)(a), we had wages before, but we've added "wage supplements," "salary," which was before, "or draws or advances on them." This amendment was put into the new legislation to cover those types of situations where they work out with advances before, and then when you try to obtain the money through the deduction they claim, "I'm taking off what's owed to me first," which they normally can do. That's why this change was put in, to address that very situation.

**Mr Richard Patten (Ottawa Centre):** Thank you very much for coming today. One concern that has continued to be raised is the opting-out arrangement, if an agreement is made by a couple and it looks like things are going well. Having gone through what you've gone through for so long a time, I wonder whether you have any thoughts on it. Let's say you arrive at an agreement and everything goes well and then all of a sudden you're able to drop out of the plan, as it were. Would you feel comfortable with that or would you prefer to see —

**Ms McGillis:** I am so very glad that somebody asked me this question. I think everybody should be forced to enter into the program first. If you choose to opt out, you don't have any protection. He can say, "I'll be a good boy," until you opt out and then, "I'm taking off." I would suggest that any parent, recipient be in the pro-

gram. She has some measure. There are payors who are going to pay no matter what, but one day he can say, "I'm maxed on my credit cards; I'm not paying support." You'd never know when it's going to happen.

If any woman walked up to me and asked, "Should I opt out of the program?" absolutely not, no way. It's like not having a spare tire in the trunk of your car. It's like not having an extra dollar stuck in the bottom of your purse in case you need to make a phone call. You have absolutely no protection. They can't help you.

But I do agree that if you are in the program and you decide to opt out, if there are any problems, you can get back in easily without mountains of paperwork and forms and things to be filled out. They lost my file the first time I filed. Make it easy to get in and out, with no penalty to go in and out. Don't charge them. We don't have the money. I didn't have the money to get copies of my report today. They don't have the money to get in and out. It has be: "I'm in, fine. I'm out, fine. But I can go in and out as I need to."

**Mr Patten:** We don't know what will eventually happen. It's not in the control of the total committee. The government will make that decision. If it goes forward that there is an opting-out possibility — you personally may not agree with it, but it still may be there — would you feel there should be stringent compensations for the recipient, if such a situation arose, to discourage people from opting out of their commitment? In other words, if they do, they're really going to be nailed for the compensation by virtue of the disruption or whatever may happen in the interim.

**Ms McGillis:** Are we always going to be assured we're going to get that money if we're out of the plan? I would ask them that: Are you assured you're going to get your support? If you've got it for the last who knows how many years, fine, the plan really isn't going to help you either way. But she should be able to go back into it at any time, at no cost, without spending months on paperwork, phone calls and whatever — in or out.

**Mr Patten:** Let me just congratulate you on your persistence and survival capacity for your children.

**Ms McGillis:** It's a game of survival.

**Mrs Boyd:** Thank you very much for coming and for sharing with us some of the frustrations you have had. As you know, this has been a growing experience in Ontario. You must have been under the SCOE plan to start with and then under the family support plan. Although each time there's been an improvement in the plan it's caught some cases, obviously it hasn't worked for you to this point, and I certainly share your hope that these provisions are going to make the difference for you.

One of the things that concerns me is not the opt-out clause but the clause that allows the director of the plan to refuse to enforce. There are two areas that apply to the case you've told us about. I gather that your partner was in the United States and that he was hard to locate at some points during the six years.

**Ms McGillis:** Before Monday when this letter was received, the last known address was Portland, Maine. Whether he was living there, passing through, staying over, who knows?

**Mrs Boyd:** Exactly. And also the amount of money, which is quite large: \$70,000. One of the things that concerns us about the bill is that the director can refuse to enforce an order if it is of long standing, in other words, if it's been outstanding for a long time; if the person is hard to locate; or if the arrears are very large and of long standing. It frightens me that somebody like you, who has worked so hard to try to keep things going for so long, if he should disappear again — if you had come before your postscript — would in fact find your order simply not enforced. Do you share that concern?

**Ms McGillis:** I don't think the director should have the option of not enforcing old or uncollectible. If some cases end up in collection agencies — if I know there's a collection agency after him and hounding him, it's hope; it's maybe going to be more than a peanut butter sandwich for Christmas dinner next year. Maybe it's going to be better protection for my daughter. Maybe I'll have an answer for my children when they say to me: "When is this going to end? Who's helping us? Mom, what are you doing? Can't you write letters? Can't you make phone calls?"

I don't think that the director should refuse to enforce, but I think it should be explained to that recipient that a lot of it is uncollectible. Can we not maybe start today? In my case, I would be happy if I started getting a little bit every month, even if they couldn't recover the \$70,000. Something is better than nothing. If they can't enforce the past moneys, at least start me for the future. I can't go on like this.

**Mrs Boyd:** I appreciate that. The other part of it is the issue, of course, of the length of time it has taken to really find him and the possible collusion of his employer in terms of the salary draws. Do you think he has also sheltered his assets under someone else?

**Ms McGillis:** Oh, I know he has.

**Mrs Boyd:** In the United States?

**Ms McGillis:** I would guess and say yes.

**Mrs Boyd:** One of our concerns is that the promise of attaching joint property or attaching joint bank accounts, as I understand it, can only be done within our own jurisdiction, and that may not be a possible avenue for you in another jurisdiction.

1650

**Ms McGillis:** When my children's father dropped out of sight, he had \$29,000 in RRSPs, \$4,000 in a bank account, \$22,000 from the sale of the matrimonial home and who knows what moneys that I don't know about, and he's gone, just like that. Now where did the money go? He left his lawyer in debt, thousands and thousands of dollars. My lawyer told me that. So where did the money go? Now we hear that he's in Portland, Maine. He probably converted it to travellers' cheques or bonds or who knows what, and off he went. My children didn't have anything to eat and I lost my home.

**Mrs Boyd:** May I ask for a clarification from staff as to whether this attachment of joint accounts or joint property or partnerships can happen out of our own jurisdiction?

**Mr Tilson:** My understanding is that if there's a jurisdiction that has a reciprocal agreement with the province of Ontario and that jurisdiction has that type of

mechanism, that could be done. If that jurisdiction did not have that mechanism, then we'd have a problem. We can't force jurisdictions to have the same enforcement type of provisions that we have.

**Mrs Boyd:** My understanding is that this bill will make ours among the best in the world.

**Mr Tilson:** We believe it'll be one of the toughest, yes.

**Ms McGillis:** May I just say that I e-mailed the governor of the state of Maine. I said in about two paragraphs what the problem was and they sent me back a message saying: "Okay, note taken. If he walks into the office, we'll send him back to you." That was it, two lines, so my case is way down here in the state of Maine. It's right in the toilet.

**The Chair:** Thank you, Ms McGillis. Perhaps you might send Bill 82 to the governor of the state of Maine. Maybe something would be done.

**Ms McGillis:** Maybe you could send one to each of the states we have a reciprocal agreement with and tell them I'm coming.

**The Chair:** Thank you very much for your presentation.

#### MOTHERS AGAINST FATHERS IN ARREARS

**The Chair:** Our next presenter is Regina May. Welcome, Ms May.

**Ms Regina May:** Good evening. Unfortunately, Kaarina Pakka from Mothers Against Fathers in Arrears can't be here and I had an appointment at 4:50, so I'm going to speak on behalf of the group, as I'm one of the co-founders, and also for myself, if that is permissible.

**The Chair:** I'm sorry. I didn't get the group that you are speaking for.

**Ms May:** Mothers Against Fathers in Arrears, MAFIA.

**The Chair:** Please proceed.

**Ms May:** The letter from the steering committee is as follows:

"To the standing committee on administration of justice:

"Bill 82, the Family Responsibility and Support Arrears Enforcement Act, 1996.

"On May 20, 1993, we had to literally take picket signs to the homes and offices of two wealthy fathers who chose not to pay child support. These fathers were enabled by the present legislation to commit a crime against their own children.

"MAFIA since that day has picketed many non-supporting parents. The stories are always the same; only the players change. We need the legislation to change. We all know the facts and figures. Get the cheque to the child; end of story.

"MAFIA's creed is as follows: God grant us the serenity to accept the things we cannot change, the courage to change the things we can, and the wisdom to know the difference."

When we literally could not get money from these fathers, we took the picket signs to the streets. We all know how these men don't have any money. We're also established now in the United States as a result of all our picketing. The figures speak for themselves. I have documented and my group has documented a pile of



publications referring to all our pickets where we literally had to go out by ourselves and secure the money. Each picket has proved successful, and the fathers have paid up within 24 to 48 hours.

My own case: Today is my daughter's birthday. She's 20 years old. I've had an ongoing struggle for 20 years. We're no longer in that financial bind, but I do put back into the system.

I have all transfer documents for a dentist who chose not to pay child support; everything transferred way back — cottage, houses. The day we picketed he lived in a mansion like this but he didn't have any money. We were unable to enforce that court order.

The day we picketed my lawyer received the cheques for the outstanding amount that was owed in child support. Now why is it that this law cannot be enforced? Why? Why does the government allow people to transfer funds into other people's name, places and things and hide behind the corporate veil?

I have a letter here from my accountant to my lawyer advising them that London Life gave my ex \$6,619,000, to a company, and yet I could not get child support — the corporate veil.

It's imperative that this legislation goes through. We give them the tools literally to rape us, not physically but emotionally. We give them the tools to humiliate us. Our children see us disturbed. Is this the way to bring up children? This is child abuse. That's all I have to say. It's too emotional an issue. That's all.

**The Chair:** Thank you very much for your presentation, Ms May. We will move on to questions, if that's okay.

**Ms May:** That's great.

**The Chair:** We will deal first with the third party.

**Mrs Boyd:** Thank you very much for coming. I can tell how painful it is. You are certainly very representative of a large number of recipients who because their partners, first of all, are very well-to-do and are able to get the kind of legal help that helps them to shelter their income and shelter their assets, and then is self-employed so there's no employer to do a salary deduction order, have been the toughest of all to do.

I think everyone in the Legislature is very hopeful that the measures under Bill 82 will be successful, will withstand the kind of court challenges that we expect from someone who is so obviously determined not to pay as your ex-partner. I wish he were atypical, but I know he's not. I've met members of your group and members of other groups who tell very similar stories, and that's the thing that gets so discouraging, that it seems to be so focused on not fulfilling the obligation and in fact having an extension of the kind of emotional and financial abuse that probably led to the breakdown of the relationship in the first place. It's really difficult to talk about and we really appreciate that you're here.

Our concerns about the bill are not about the enforcement provisions that you're in favour of and that we're in favour of. It is some of the other issues around when the director could refuse to enforce an issue, or the opting-out provision for people getting out of the plan. Those are two concerns that we have. There are a couple of other ones that are more minor, but those are the ones

that really worry us, because under section 7 of the bill there are a whole slew of reasons why the director could refuse to enforce an order.

Knowing the lengths to which people like your former partner go to avoid paying, our concern is that the ones who are hardest to collect from, the ones who are going to require the most effort on the part of the plan, are the ones that the plan might not enforce. That's our biggest concern, that people like you, given a 20-year span, given the kinds of efforts that your ex-partner went to, would be the very ones that the plan might decide were not able to enforce. The one that really concerns me is if the arrears are large and longstanding, prior to the SCOE plan, which yours would have been, the director could refuse to enforce.

That's where our concern is and I wonder if you share that concern.

1700

**Ms May:** If enforcement measures had been made a long time ago when we really asked for them to be made, the arrears wouldn't have mounted up to this particular amount. Also, demographically, I'm the leading edge of the baby boomers. I'm 51 years old, so there's going to be a big bulk behind me. The figures are going to increase. That's why it's more important to deal with the issue of enforcement first. Bring in the tools to enforce, to make them pay.

Here I have an order. It is a court order that says, "Family support plan file information to go into the payroll deduction." It's a company that doesn't even exist. If we were able to break down the corporate veil and able to report him to the credit bureau — some of our members are up to \$80,000 in arrears. Some of our members' fathers run men's groups. I've seen assault charges against these men, 15 assault charges, and they're in arrears with them. They've got the tools, they've got the power. Let's enforce and take the tools away from them that they can use so cruelly on women and children.

For instance, if he is reported to the credit bureau, he won't be able to renew his Visa card, he won't be able to be on my flight, like he is, owing \$18,000, and I have to serve him. It's humiliating, totally humiliating. Take the tools away. He's on an elitist flight. He travels first class.

I'm not the only one. I have sat in family court and watched the judges, totally powerless because they don't have the enforcement measures. We can't prove they're lying. It's all set up for them. So if we can enforce first —

**Mrs Boyd:** Sure. When SCOE came —

**The Vice-Chair (Mr Ron Johnson):** Mrs Boyd, I'm sorry, we have to move to the Conservative caucus now. You have five minutes. I've got Mr Klees and Mrs Marland on the list.

**Mr Klees:** Thank you, Ms May, for your presentation, and thank you also for the endorsement of this bill's enforcement provisions. I would like to direct a question again to the staff, if I might, only for the purpose of clarifying for the record the issue that was raised by Ms May, and that is the transfer of assets either into another person's name or into the name of a corporation. Could we have some clarification as to what this bill will do to address that issue?



**Mr Goodman:** Yes. One of the major initiatives of the bill are the enhanced powers on a default hearing, to actually have added to a default hearing a third party, which could include a corporation or other entity which may have been assisting in the sheltering of assets or income of the payor. There are things in that section that will deal with it.

We also have the ability to register under the PPSA, the Personal Property Security Act, if we're able to make some registrations against personal property in advance of the transfer itself.

**Mr Tilson:** The preventing of the sheltering of assets, Mr Klees, is section 41.

**Mrs Margaret Marland (Mississauga South):** Ms May, I just wanted to thank you very much. I have seen you in the Legislature and I know how much time and personal effort you have put into being involved with this legislation. I can only humbly express the appreciation of all of us that you have made that kind of effort and commitment.

The only question I have to ask you is, is there anything else that either you or MAFIA would have liked to have seen in the bill? Are there any gaps that haven't been addressed that we could still address?

**Ms May:** At the present time, I and the steering committee have had a good chance to study the bill and we just feel that enforcement was needed yesterday.

**Mr Tilson:** Ms May, congratulations for coming and telling this. It's because of your type of case that essentially this bill has been introduced, a number of men, generally — not always, but generally men — who have literally ripped off not only the women and children but also the state. Obviously there have been many women and children who because of, in many cases, zero payments have been forced to go on government assistance. We believe these tools, as has already been indicated, will be the best in North America, and we believe that many of the problems you've listed will be solved, particularly the issue Mr Klees has raised, the section 41 provisions of sheltering of assets, because that's the typical cute trick that's applied, where you put all your assets in someone else's name, generally a new spouse. Thank you very much for coming.

**Mr Ramsay:** Ms May, thank you very much for coming. I wouldn't mind getting some more detail on the \$6-million transaction with London Life you referred to. We discussed here yesterday that there are some areas where we would need federal cooperation to go after assets such as RRSPs. So I'm interested in whether this was a RRIF or an annuity purchase of some sort.

**Ms May:** No, this was a business transaction. London Life gave him \$6 million to the corporation, whereas on personal papers he showed he was bankrupt — not bankrupt, but poor. Everything is leased to the corporation, everything is leased to his mother or father, his latest wife or his girlfriend, or his cat or his dog, but nothing is in his name. So there's nothing to get under the present legislation.

My case is not unusual. I listen to women over and over again. It literally breaks my heart to hear them, and some men too. This is not a gender issue. It's just the way it is demographically.

**Mr Ramsay:** I wouldn't mind directing a question to staff. Will the plan have the resources to track down these dummy organizations and companies to try to ferret this sort of transference out?

**Mr Goodman:** Generally section 41 is a default hearing, so that's a court process. It's hoped that other measures will be important beforehand. But when we're using the other administrative measures, then we'll be able to use the default in the court proceedings for these types of cases where they're involved with that. Also, some of the changes to the definition of income source include shareholder loans or things of that nature if individuals have their own corporation and they're taking remuneration through shareholder loans as opposed to ordinary salaries or wages.

**Mr Patten:** To build on that question, because this is a whole other procedure that would take time and presumably could drag out over a period, I wonder whether there is not the possibility of some kind of measure of an individual, by indicators, that suggest this individual is not poor, that this person has means by virtue of cars, accessibility to transportation, expenditures, use of credit cards, whatever it may be, whether there cannot be some measure — that would have to be done very cautiously of course — to very quickly say, "Come on, Bud, you know this person is pulling the wool over everyone else's eyes and is, by virtue of the complexity of our legal system, getting away with being abusive to a family," whether there isn't another vehicle that could be used to do such.

**Mr Tilson:** Are you asking a question to the government?

**Mr Patten:** Yes.

**Mr Tilson:** I think you have to look at the overall package of enforcement that's being put forward. We've zeroed in on section 41, which is trying to seize assets of individuals who are almost part of a fraudulent conveyance, which is another interesting piece of legislation, of course. But you have to look at all the other tools that will now be available to the director, such as the suspension of drivers' licences, that this person simply cannot get any more credit because it's going to be registered — making registrations under the Personal Property Security Act. If you look at the overall package, if one won't work, we believe there are other provisions in the bill that will make it almost impossible for these individuals to use the cute tricks they've used in the past to literally evade payment.

**The Vice-Chair:** Ms May, on behalf of the committee I want to thank you very much for your presentation.

1710

DANA JANES

**The Vice-Chair:** Our next presenter is Ms Dana Janes. Welcome, Ms Janes. You may begin any time.

**Ms Dana Janes:** My presentation is very short and it's mainly about the opting-out provision. I've noticed there is interest in that provision because both previous speakers were questioned on it.

I've been divorced for 10 years and have had no problems collecting support. I got involved with a group,



Mothers Against Fathers in Arrears, because I couldn't believe that women would have these kinds of difficulties. When I listened to Ilene's story I realized that the family support plan was not working. I personally would want to be exempt from being in the support plan or being forced to go through any kind of government procedure because I had no problems, and I think it would free up manpower so that other women can get more help. To me it's not necessary that there is a person looking after my case or cases like mine. Why should there be a clerk shuffling paper if there are people in real need? I don't have a real need and I'm involved with a group. Does anybody have questions?

**Mr Guzzo:** Can I make a point? I think it would be very helpful from everybody's perspective if people would be willing to identify at the start, even in the case of this lady who has no problem, the nature of employment or the source of income of the payor.

**Ms Janes:** My ex-husband is a banker, and I have a very easy time collecting the money. He doesn't want the embarrassment. He wouldn't want anybody knowing. We settled between the two of us, and it was good for my children not to be involved in their father feeling resentful, and I wouldn't want them emotionally knowing that.

**Mrs Marland:** Ms Janes, you joined the group you belong to for —

**Ms Janes:** Moral support.

**Mrs Marland:** It's volunteer work for you to support people who are not as fortunate as you are. Is there something specific you've learned from your work with that group that has been a major problem that you think this legislation will address, and is there something that you think might still be a gap?

**Ms Janes:** I've learned that Bill 82 will address a lot of their problems and will help them to collect the money they need for their children and themselves. I'm sure that like any law it will have faults, but I see that the results we've had with semi-guerrilla tactics were very positive. It goes to show that there is still a way that even the most irresponsible person or person who thinks he or she is above the law can still be stopped and made to think of their responsibility. But you have to show them because they don't understand it themselves, and the law should look after it.

**Mrs Marland:** So in your case, when you say you don't want the resources of any other agency wasted, be it the government or someone else — well, it would be wasted on your case because you have no problem.

**Ms Janes:** Totally.

**Mrs Marland:** If the problem is never initiated, they would never be involved in the beginning anyway, would they?

**Ms Janes:** That's right. If the case doesn't even require a postage stamp, like it was in my case — we could resolve everything between the two of us and the lawyers. It wasn't that amicable but we were able to resolve it. Why should I or anybody like me draw on resources that are so badly needed in cases where you deal with people who are totally irresponsible, go on welfare, change addresses or hide, or who have the power to completely avoid responsibility because they have the wealth behind them?

**Mrs Marland:** I think it's very commendable that you do that work when you didn't need it yourself.

**Mr Guzzo:** It's interesting. You know that your husband has to pay because of the employer, and we're not fans of the bank, at least I am not. But we also know what would happen if the previous speaker had written to the dental association, to the governing body of the dentists of Ontario or Canada: the same reply that would have come if her husband or ex-husband had been a lawyer and she had written to the law society — absolutely nothing.

Is this behaviour unbecoming of a professional, a lawyer? That's a very good issue. I could tell you that no professional organization will respond, but I saw a very interesting situation a few years ago: of all things, a bookmaker in arrears whose enjoyment in life was to travel to a certain casino in Atlantic City every three or six months. The casino in question, when notified, refused him access. It's just an indication of how banks and casinos operate, and our professional organizations do not have the same —

**Ms Janes:** I agree with you. I think something should be done where professional organizations have a better understanding and a better commitment to the overall civilization of our society, because it's a matter of how civilized you are.

**Mr Guzzo:** It is a problem of self-employment. The self-employed are the people who present the problem, whether they're lawyers, dentists, taxi drivers or bookmakers. However, thank you very much for attending.

**Mr Patten:** Thank you for attending. I gather that your point is, don't waste time on cases that do not require work.

**Ms Janes:** Basically, and leave the opting-out provision in or adjust it so a person like me doesn't need to put any workload on an office like that.

**Mr Patten:** So you wouldn't be part of the plan.

**Ms Janes:** I wouldn't want to be.

**Mr Patten:** Did you say you were part of a support group?

**Ms Janes:** Yes, I'm part of Fathers Against Fathers in Arrears.

**Mr Patten:** Now, let's take your essential proposition, which is, "Don't waste time on those who don't need the effort," which I think is your principle. In cases where there may appear to be amicable arrangements but after a while it doesn't quite work out, do you think there may be a role for the plan in terms of making sure, for people who opt out, that they can also opt back in if something happens?

**Ms Janes:** I imagine that should be retained in it. That should be part of the opting-out provision, because circumstances could change and people may change their character, although I doubt it. But if that's the case, they should be able to go in. But I really don't like unnecessary bureaucracy.

**Mr Patten:** I know what you mean. Thank you very much for coming.

**Mrs Boyd:** Your separation agreement occurred 10 years ago?

**Ms Janes:** Yes.



**Mrs Boyd:** It was an agreement, it wasn't a court order?

**Ms Janes:** It wasn't a court order.

**Mrs Boyd:** So it was never registered with the plan because it didn't have to be.

**Ms Janes:** No.

**Mrs Boyd:** That's the same under this law. Unless it's a court order it isn't necessarily registered, so the issue is not whether, when there's an amicable agreement, people would have to be under the law.

**Ms Janes:** My understanding is that now, if you get your divorce order and support payment is part of the divorce order, it is a court order and it goes to the support plan.

**Mrs Boyd:** Now it is, yes. But nobody would force you into the plan, that's all I'm saying, in your circumstances.

**Ms Janes:** Because that's how it was done in my case.

**Mrs Boyd:** Yes. One of the real issues around having everybody registered with the plan and having people pay through the plan was so that there wouldn't be any stigma on those like your ex-partner who did their obligations. What's being proposed with the opt-out provision, and even with the safeguard of having a judge say you can't opt out, is that the assumption of an employer — in your ex-partner's case a bank — on seeing an order come through, would be the correct one, that there's some problem with this order.

What we were trying to do, when we changed the law in 1992, was to make sure that no employer ever knew what the personal circumstances were of his or her employee so that there was no stigma attached to anyone. It was like income tax: Everybody gets it deducted and there's no stigma on the person because they have a support order registered with their employer. Once you have an opt-out provision, the assumption of an employer will be, "My employee is not being a faithful payor; my employee is somehow falling short." That's one of the reasons we opposed the opt-out, because in the long run it may stigmatize people and make it possible for their employer to have a bad view of them, whereas that wouldn't be true if everybody who has a court order just gets it deducted; the employer doesn't have to make any assumptions about whether or not the employee is a faithful payor.

1720

**Ms Janes:** I don't know. I really can sort of feel for everybody who wants to be equal to everybody in respect of there is stigma, there is no stigma. We just didn't need it, and if you don't need it, why does it have to go through anything?

**Mrs Boyd:** Well, there's another reason of course, and that's that people often pay for the first couple of years, they get into another relationship, they have children by that other relationship and they stop paying. That's the case that you've seen with some of the people in MAFIA. I know, because I've seen some of the background for some people who have written me in the past about their cases.

Part of the problem is that if you opt out and then the payments stop, you have to go through the process and get the whole thing started up. As people can tell you,

that takes time, and in the meantime you can get into some of these difficulties around not being able to pay the mortgage, not being able to pay the car payment, not being able to feed your children. So part of the issue really is around an assumption that people who are going to be responsible will be responsible, but people who aren't going to be responsible, like the majority of ex-partners of the members of MAFIA, will do anything to avoid payment, including saying to somebody, "You opt out of the plan; I'll pay you," paying for a couple of months and then disappearing.

**Ms Janes:** Well, then of course you would make the application, and only then would you create a file, rather than always have a file, always be a part of somebody's daily procedure, somebody who has to look it up, or just take up a space on the database on it.

**Mrs Boyd:** But the purpose of having —

**The Vice-Chair:** It's time to move on.

**Mrs Boyd:** Really?

**The Vice-Chair:** Yes, really.

**Mr Goodman:** I wonder if I could make a clarification around the issue of the stigma and opting out, that an employer would then know, because they're involved with the program, that they are in arrears. The way the situation works now, if there are arrears, an income source would know now or in the future simply because they would receive a notice to make deduction on the arrears. So even now or in the future there would be that notice to an income source of the arrears.

**Mrs Boyd:** But not on a regular payment.

**Mr Goodman:** If they were up to date and there were no arrears, they would just be remitting the ongoing support because they would not receive any notice of arrears.

**The Vice-Chair:** Ms Janes, on behalf of the committee I want to thank you very much for your presentation.

**Mrs Marland:** Mr Chairman, because we do have a couple of minutes here, I have one question for you. The committee received a letter today from the Information and Privacy Commissioner dated December 4. We've just had it handed out this afternoon while we've been sitting here, so I haven't read it yet, but it brings to mind a question I do have.

One of the briefs that we received a copy of this afternoon has both the party's name and their case number, their file number, on it. I'm thinking it might be wise if we do not circulate briefs that have the party's name and case and file number on them. I fully confess, of course, to not being a lawyer, but I think it would be better if we didn't have that on the record or in our hands. Everything that we receive is in the public domain, and I think for the protection and privacy of that individual I would like to request that we withhold this particular brief from this afternoon because of the information that is on it.

**The Vice-Chair:** Just a quick point of clarification. The witness had provided that to be photocopied for committee members. Are you suggesting the committee members get it but not the public? Is that what you're suggesting?

**Mrs Marland:** No. I'm suggesting that with all good intention the deputant provided it to us, but I feel wrong



in having it. No one else in the public, I think, at this point has this particular document this afternoon. I'm suggesting that because it has that personal case file number on it, we should agree as members of the committee that this particular document be protected in some way. We as members can protect this document is what I'm saying. I think we should be careful in the future, if there is a document that comes forth with that information on it, that it's not copied and circulated with that number on it; second, that this one doesn't go any further than it's already gone this afternoon.

**The Vice-Chair:** We can discuss this very briefly. Mrs Boyd, I know you had something you'd like to say.

**Mrs Boyd:** I would think the choice would be up to the deputant, and if the deputant gave the information — it was not derived from any government record, it was given by the deputant, and those of us who deal with a lot of these cases in our office know that very often people who are concerned with the plan have no problem with people in the Legislature knowing their case number. They want it resolved through any means. I don't think we should be making the choice on behalf of the deputant. If in fact the plan were to come forward and identify somebody by a case number, that would be very serious, but the deputant has the choice.

**Mrs Marland:** May I just respond to that, Mr Chair? As members of Parliament, we all have these cases, I would say to you, Marion. We're all working on these cases all the time in our offices. I'm simply saying that for us as members to have this information is very different than the public having this information. As a member, I don't wish to circulate publicly the cases and the names of the people I am working on in my constituency and Queen's Park offices.

**The Vice-Chair:** Mrs Marland, I do want to move on here because we do have some — one moment, please.

**Mr Peter Kormos (Welland-Thorold):** Very brief? The participant in the hearings who provided that material is here. She's heard this conversation. Why doesn't the Chair ask her?

**The Vice-Chair:** One moment, Mr Kormos; I'm getting there. Just hang on a minute. I do want to move on to the witnesses, but what we will do is determine through the clerk whether the witness would like that distributed just to the committee or whether it's for the public to see as well. We will make that determination through the clerk. Is that satisfactory to everybody?

**Mr Tilson:** No, it's not. I understand the comments made by Mr Kormos and Mrs Boyd that obviously we can't stop an individual — it could be a payor or it could be a recipient — who comes forward. I mean, it could be the other way around than what you're thinking about; it could conceivably be a payor who is making comments, releasing information that he or she should not be releasing. It may affect children. It may go beyond the privacy protection. It may go beyond the deputant.

I think Mrs Marland has made an excellent observation, and I'm not too sure of how we do protect. We can't stop deputants from speaking, but I think her point of order is an excellent one as to protecting not just the deputant, who may wish to speak on anything he or she

wishes, but I believe we've got an obligation under the privacy legislation to protect others.

**The Vice-Chair:** We do have a couple of options as a committee. The deputant has already made the presentation. We can instruct the Chair to find out the individual's wishes, what they would like done with the material. That to me would seem the most obvious route to follow. Or it can be referred to the subcommittee to deal with it as well, so that's an option. I'm open for suggestions from committee members.

**Mrs Marland:** I think the parliamentary assistant has just made the point that there are two parties to that number. I don't know what Mr Wright, the privacy commissioner, would say, but I'm raising the point because I have a personal concern. I think it may have been given in all innocence in terms of where the stuff we receive is circulated, but unless people are used to coming before committees and bringing a copy of their printed deputation, I don't think for the most part the public understands.

I wouldn't have known before I came down here, and I doubt if any other member would have known, that when you come before a committee, anything that you hand out is now in the public domain unless the committee made another decision. I'm simply saying that in this kind of case, where a number involves a number of parties, frankly, for today I would like to suggest that we keep this particular deputation confidential and get an opinion from Mr Wright, the privacy commissioner, because I don't want to take ownership of that responsibility as a member today.

**The Vice-Chair:** One of the options we have, and I think it would be the most expedient, is that the subcommittee apparently will meet at the call of the committee after this this evening, and it can be referred to the subcommittee so that we can get on with the witnesses. Is that fair by everybody?

**Mrs Marland:** Good.

**The Vice-Chair:** That's what we'll do. There's agreement? Good.

1730

#### BRENDA QUINLAN

**The Vice-Chair:** We will move on to the next presenter, Brenda Quinlan. Good evening, Ms Quinlan. You can begin any time.

**Ms Brenda Quinlan:** My name is Brenda Quinlan. I'm from Woodslee, just outside of Windsor. My present status is I'm separated since September 1994. I have six children aged from six to 14 by one father, Michael Quinlan. I work part-time as a school bus driver. My income is only \$800 per month for nine months of the year and then I receive a child tax credit.

Presently my husband has been ordered to pay \$2,000 a month in child support and an additional order for mortgage and property taxes until the divorce was final. At this point I have put out \$13,000 in legal fees. I've depleted my RRSPs, my NISA account and my savings. We have lost a 50-acre parcel of land. I have lost machinery valued at \$165,000, and at this point the Woodslee Credit Union has taken power of sale on my home.



The arrears he has to date — these are court-ordered arrears — are \$4,500 in child support, \$7,800 in mortgage payments, \$6,000 in property taxes, and a \$1,000 legal fee for the power of sale. I am also suffering consequences with Revenue Canada. I have a \$1,600 income tax bill for 1994, which I lost an appeal on, and due to the sale of the equipment there is a possible \$30,000 income that will be added to my income for next year. Not one of these debts can be erased and I don't have the money to pay for them.

There is a rumour that there's a possibility you may wipe out the arrears to eliminate some paperwork. I unfortunately can't wipe out these payments. They have to be made. So I hope you consider that when you discuss the arrears.

At this point, my husband has \$13,000 in RRSPs. He has \$15,000 in a NISA account, which is a net income stabilization account. He drives a brand-new Dakota and lives in a brand-new house, and in the last two years he has grossed \$400,000 income on the farm. Yes, I'm very upset with the system. I find it unjust and unfair.

My concerns: You attempted to downsize and cut back when the regional offices were already struggling to complete their work. At this point I haven't seen any studies to justify what you have done. Obviously there is not the staff to handle the workload. Many of us women are at-home moms due to a decision by both partners. It takes us a while to get our feet on the ground. A lot of us will have to go back for training. None of us wants to live on the system, but it has to be in place until we get our feet on the ground. You can't expect any of us to go back to school not knowing if the income's going to be there.

The system currently in place still gives the non-custodial parent control, and mostly that's men. A lot of us women want to get our lives on track, but we can't do it, because we are always still under their thumb.

As much as you may want to flour over this system, I am one of the ones who's having a problem with it. I have spent hours on the phone calling, dialling, redialling. I've been hung up on. I have not received any answers whatsoever. The most I've succeeded in doing is four messages left on the voice mail, one fax sent through and one conversation with an operator who couldn't even help me. I don't know why there are operators out front who don't have access to computers, who can't even answer your questions. She was very sympathetic. She listened to my story and then at the end of it said she had to put it through to an enforcement officer. I don't understand the reason for the operators out front.

I find \$4,500 worth of arrears and power of sale on my home three weeks prior to Christmas very critical. I don't know if any of you can really appreciate the situation I'm in. By centralizing, you have taken away the personal contact that us women have had. This is a very emotional issue. We have to deal with people we do not know. Our lawyers no longer have preferred contact with the office. At least with the one in Windsor they had fax access and they had their own line that they could call in on. Your staff down here is not familiar with our businesses, our banks, so more time is going to have to be spent explaining the situation. At least the girls in Windsor were familiar with the surroundings.

I have worked very hard for two years to try to establish a credit rating. I don't know if you realize how much damage this has done. Ontario Hydro, Bell Canada, MasterCard and Visa don't care whether I'm receiving my support.

I believe your expanding the definition of the income source is a great step. I hope you take it one step further to include RRSPs. Like I said, I find it very hard to comprehend that a man who is this far in arrears can sit there with \$13,000 worth of RRSPs and continue to contribute to them. I hope you look at that avenue. I don't think it's any benefit to us to wait until they're cashed in. I think it's something that should be able to be seized.

In my situation, I have two separate support orders. Family support handles my \$2,000 a month. The remainder, the mortgage and the property taxes, has to go through the court system. I find this absolutely ridiculous, because one doesn't know what the other one is doing. In order for me to get anything done, I have to put out \$3,000 to get a motion just to get it back into court. I don't have access to that kind of money.

I've had two lawyers to date, matrimonial lawyers. They have both told me the very first thing that will be wiped out when this man cries poverty in court will be the arrears, and these are arrears that have to be paid.

I truly believe in the suspension of the driver's licence. I think that is a good move. The only problem might be what you consider default. In my situation, my husband could be \$2,000 behind, which is only one month's payment. It might take somebody else 10 months to get to that point. So, I would be interested to know what you consider default.

Garnisheeing joint bank accounts is also a good move. My husband has gone to the point of actually incorporating the business to hide income, so I believe that is a good move. I wish you could take a look at employment status. It seems to be pretty common for men to cut their income automatically just to avoid paying income. I can understand if it's a major shutdown of some company, but if the man gives up a \$53,000 job to take a \$22,000 job, you know the reason he's doing it. I wish that could be looked at.

I believe that the family support plan must be in place. My main complaint is the line of enforcement. Many women are trapped in the system with no legal aid. With what men are allowed to get away with as far as non-payment, we don't have access to the funds to pay for the courts' enforcement. It should be automatic. If any money is in savings, including RRSPs, it should be seized. While you are delaying, banks and credit unions are taking action against us.

1740

Thank you for your time and allowing me to speak.

**The Chair:** Thank you very much, Ms Quinlan. We'll hear from the opposition first. Mr Hoy.

**Mr Pat Hoy (Essex-Kent):** How much time do we have?

**The Chair:** We have approximately four minutes each.

**Mr Hoy:** You mentioned assets from a farming operation. Did you and your husband sell that operation? Where did those moneys come in?



**Ms Quinlan:** He had basically taken my name off the farm operation, so I had no control over where the money was going. He stopped making payments on machinery and the mortgage on the farm, so they took action against it and they were sold. Presently, to date, there is \$45,000 sitting in term deposits in two banks, and I have notified the family support office to try to get that money seized, and nothing's been done.

**Mr Hoy:** Anything that you might have realized from that, any money that you might have got from that sale is gone now? You've spent it in order to survive over the last two years?

**Ms Quinlan:** Definitely. I have lost basically all of my savings just trying to keep up with the legal system.

**Mr Hoy:** The arrears you're talking about, over what period of time did that occur? Is it just in the last three months, for instance? How did that accumulate?

**Ms Quinlan:** The child support is just recently. I was receiving the money. The money was coming in. That has just been over approximately the last three months. In the month of November, I only received \$650.

**Mr Hoy:** You drive a school bus?

**Ms Quinlan:** Yes.

**Mr Hoy:** That pays you about —

**Ms Quinlan:** Approximately \$800 a month for nine months.

**Mr Hoy:** Are all your children at home?

**Ms Quinlan:** Living at home? Yes.

**Mr Hoy:** They're not —

**Ms Quinlan:** No, they're in my care.

**Mr Hoy:** Your point is quite clear to me: that, first of all, your husband is in an arrears situation and then you know that he has moneys elsewhere, particularly the registered retirement savings plan.

**Ms Quinlan:** Yes. I cannot understand why this money cannot be seized. I've left messages. I've given them the name of the financial institution it is at. No action has been taken.

**Mr Hoy:** But then there's other moneys in a regular banking account?

**Ms Quinlan:** As far as personal moneys, I don't believe he has much in his own account, but he does have to date \$13,000-plus in RRSPs. The NISA account is definitely \$15,000, which is readily available cash and can be withdrawn.

**Mr Hoy:** What's a NISA account?

**Ms Quinlan:** The net income stabilization account. It's a farming account where the participant contributes money and the government matches it. It's a type of a savings account. It's purely optional. Since our separation, he has put to date \$10,000 into this account but yet is not paying the arrears.

**Mr Hoy:** As far as you know, the NISA account is being treated in the same way that a registered retirement savings plan is?

**Ms Quinlan:** Yes, it is.

**Mr Patten:** I have just a quick question. I thought your characterization of the difference between a local regional office and the centralization was quite pertinent and extremely important, because that pattern is going on throughout this government in many areas and many fields. I wonder if you might elaborate a little bit on that,

someone who has an understanding and an appreciation of your case because they have a feel for your particular part of the province or they may understand the business climate or whatever that may be.

**Ms Quinlan:** At least if you had problems getting through to the Windsor office, you had the option of driving up and actually speaking to somebody. I've had great results with them. He had stopped paying for three months approximately a year ago, at the same time we were selling the farm. They put a lien on the farm, and within a week I had the \$6,000. This should be handled in the same fashion. The money is sitting there.

It's very difficult because it's a very emotional issue, and it's hard to talk to somebody over the phone who really does not care.

**Mr Patten:** They don't know you.

**Mrs Boyd:** Thank you for coming and sharing with us. I need to be sure I understand. It's only in the last three months that the \$2,000 a month on which you and your children were living has not been coming in?

**Ms Quinlan:** Exactly.

**Mrs Boyd:** Okay. That's as a result of the disruption in the plan, I assume.

**Ms Quinlan:** Because I'm unable to speak to anybody at the office, I can't find out exactly where the problem lies. I haven't spoken to anybody directly about my case, so I don't know if he is not paying or the money is being sent in and not being sent out.

**Mrs Boyd:** Not being disbursed.

**Ms Quinlan:** I cannot get that information at this point.

**Mrs Boyd:** We know that both have happened, so it could be either. The other issue, though, will not be resolved by Bill 82, if you understand Bill 82. Bill 82 is specifically saying that the family support plan will not enforce orders that are paid to a third party. So the issue that you have with your mortgage and the issue that you have with the other property things, the property taxes, cannot be resolved by Bill 82.

**Ms Quinlan:** Yes, I realize that. I've already been told that the outcome will be that I will receive X amount of money each month and I will be responsible for my own mortgage. At this point, the problem is that my husband will not sign off the house and continues to slap debt against it, so I'm in a very catch-22 situation. But yes, I do realize that.

**Mrs Boyd:** He's prepared to actually lose the equity that the two of you have contributed to this property for what purpose?

**Ms Quinlan:** I'm not sure.

**Mrs Boyd:** Is it vindictive, in your view?

**Ms Quinlan:** I'm sure it is.

**Mrs Boyd:** So even the provisions that are in this bill — what I'm trying to get at is, in a circumstance like yours where someone is clearly cutting off his own nose to spite his face, there are going to be cases even with this bill that we're not going to be able to resolve, aren't there?

**Ms Quinlan:** I realize that, but in the situation where there is money to be seized, if I were responsible for my own mortgage payment, if I knew that you could go in



and seize that money, I know that I could make my payments. The money is sitting there. There is no reason it should not be accessible.

**Mrs Boyd:** Yes. It's quite inexplicable, because even when you've got a court order from that other source that's not enforced through family support there ought to be some way of dealing with it. You're convinced that he's prepared to let this go until you actually lose the property?

**Ms Quinlan:** Yes.

**Mrs Boyd:** That's a pretty serious issue, isn't it, in terms of your children's future?

**Ms Quinlan:** I have already hired a separate lawyer, because you have to hire another one to handle the power of sale. Like I said, I don't have the money to deal with it.

**The Chair:** You have one minute, Mr Kormos.

**Mr Kormos:** I appreciate that Ms Quinlan is here explaining her circumstances. I don't think there's anybody here who isn't moved. She is not the author of any of the misfortune that she finds herself in, in no way, shape or form. I'm in no way treating this less than seriously when I say to the parliamentary assistant to the Attorney General that he, in my view, would be perfectly entitled, if Ms Quinlan were prepared to spend a few moments with him outside, to contact (1) the creditor who's involved in the power of sale to assure them that this bill is going to provide Ms Quinlan some relief — his intervention could possibly save Ms Quinlan's equity in this property — and (2) to ensure that the remnants of the family support plan, wherever it is operating from now, address this issue, Ms Quinlan's, immediately, tomorrow morning, post-haste, 8 am.

I don't expect an answer, but I think the parliamentary assistant to the Attorney General, if he were to phone the creditor and say that Ms Quinlan has spoken with him and use his office to prevail upon the creditor to slow down — because that power of sale, it's not like a mortgage foreclosure. A purchaser can come by tomorrow and buy that for a song and Ms Quinlan's out of luck. A telephone call from the AG's office to the creditor might be very persuasive with that creditor, and you'd be helping a woman with six young kids.

**The Chair:** We'll return to the government caucus. Are there any questions from the government caucus?

**Mr Tilson:** Mr Kormos, obviously the Attorney General's office will try to assist this woman as much as we can under the existing legislation, and obviously there are certain restrictions under the existing legislation that preclude us — I believe that many of the changes we're proposing, if they were in existence now, would offer more assistance to you. They may not offer complete assistance, but they would offer more assistance to you. I hope Mr Kormos and members of the opposition will help us in proceeding with this legislation to help her.

With respect to his request, I have no problem, as the parliamentary assistant, meeting with you after your presentation now to offer whatever assistance we can — or people in the family assistance program — or to direct individuals from the family assistance program to assist you under the existing legislation.

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**Ms Quinlan:** Thank you.

**The Chair:** Mrs Quinlan, thank you very much for your assistance here today.

**Mr Guzzo:** I'm sorry, could we just be clear about the nature of your husband's employment?

**Ms Quinlan:** Presently he's working as a commercial lender.

**Mr Guzzo:** Could I also make one other suggestion? I don't know — well, I'll make it. Here's a perfect example. What we can do is intervene for a legal aid certificate. I've been through this before. There will be people who will get picked up tonight for rape, murder, drug deals, who automatically get a legal aid certificate, who have never paid a dollar's worth of taxes in this community or in this province. Here's a person who has obviously been paying taxes for a number of years, and is still paying taxes. That's a matter for the law society, but they don't understand.

**The Chair:** Thank you very much.

#### BUSINESS AND PROFESSIONAL WOMEN'S CLUBS OF ONTARIO

**The Chair:** Our next presentation is from the Business and Professional Women's Clubs of Ontario, Melody Edwards and Nancy Bass. Good evening. Did I identify you properly?

**Ms Nancy Bass:** Yes, I believe so.

**Ms Melody Edwards:** Yes, I'm Melody Edwards.

**The Chair:** Your written presentation has been distributed. I'd ask you to proceed at this time.

**Ms Edwards:** I'm going to ask Nancy Bass to make the presentation today, please.

**Ms Bass:** As a member of the Business and Professional Women's Clubs of Ontario, just by way of introduction, we represent working women in Ontario and we've been organized since 1930. Our organization is open to all women who are working and our members include not only professional women and businesswomen, as our name implies, but also women who are employed as clerks, factory workers and contractors. Our members are across the ages from early 20s to 93.

We find that the present issue is one that is a very important issue to working women because we find that in many cases the issue of support for children is the responsibility of women. Working women have the double task of carrying out being employed as well as their second job at home.

The issue that's raised by this bill is very important to us. We've had various resolutions in our briefs over the past number of years that have addressed some of the issues. Generally we have to say that some of the initiatives that have been introduced in this bill are consistent with what we have been looking for and lobbying for for quite a number of years. We particularly like the fact that many of the loopholes where the non-payers have been able to dodge and hide in the past have now been filled. I think, listening to some of the previous speakers, we have seen there have been lots of places for these non-payers to hide, and the sooner they're plugged, the better.



In particular, we support the inclusion of licence suspension, the methods of locating assets sheltered by third parties, registration of support orders against a payor's personal property, being able to access joint bank accounts, interception of lottery winnings, credit bureau reporting, priority in the Creditors' Relief Act and interception of lump sum payments through the Workers' Compensation Act. We believe these will make it more difficult for the hiders to stash their money. So we really wish to applaud the government for these inclusions.

We have some concerns, however, and these are listed on pages 3 to 4 in our brief. As businesswomen, we do not have any objections to — in fact we support — the privatization of the collection. We have, however, some concerns with regard to the setting of fees. What we are concerned about is, what are the fees to be? It doesn't seem there are any set amounts that have been put in. As well, who is going to set the fees? Our concern is that if this is not set as a standard, then there could be variances from different location to different location, particularly if you privatize the collection. So you could have differences from one area to another and it could make it even harder to implement. From our standpoint, we would look to the Attorney General to set the standard fees and not leave them to the jurisdiction of the private agencies.

With regard to fees, although our understanding of this is that the ultimate responsibility of paying for the fees would be the payor's, our concern is in the areas where the payor has not been located or there's an inability to collect. We would not like to see the recipient have to put this money up front and pay for this while they're looking for the person who has shown in other ways their reluctance to pay. The way we're concerned is that a woman who is already put in the position where the payor has not paid to start with incurs the further expense of having to pay more money to have them chased and other action taken. We would like that clarified, that these fees would not have to be paid by the recipient under any circumstances.

Another concern we have is with regard to the director having the right to veto the action taken by the judge. This is outlined on page 4 of our brief. It's our position that the judge in the case has had the opportunity to hear all of the circumstances involved in that particular set of circumstances, and having heard all of the details, is the person who is in the best position to state what the judgement should be or whatever. Our concern is that someone down the road shouldn't be able to second-guess why that judgement was in place. Our concern would be that that particular part be removed so the director would not be able to veto whatever a judge would bring in.

We find that in cases where it may look as if it's a hopeless case, the judge may say, "Well, this is not going to be practical at this time," but down the road the circumstances may change and the onus would be left to the recipient to then go and try to have another order made and say, "Oh, excuse me, my husband's now out of jail," or "He's now got a job." We believe that would be putting an unfair onus on the recipient. So if a judge has allowed for a court order, then that should be sufficient to open a file and set the various actions into motion.

1800

The third thing we're concerned about is the fact that although there have been a lot of other loopholes that have been closed, the wage protection act, which is part of the Employment Standards Act, has not been included. Although it's not big bucks, it is \$2,000, and perhaps that should be considered as something else that should be plugged and added to the list of workers' compensation etc that is now collectible.

Those are the three main things we have that are our concerns. In general, we support the intention of the bill and we support the initiatives that are being taken. However, we are gravely concerned that the current offices that have been dealing with this have been closed and have basically thrown women to the wolves. We're dealing with women who are the most vulnerable, with children to support, and basically they're up in limbo right now. Again, we've heard from previous people how it's particularly affected them, and I think it's unfortunate that this wasn't brought into place before the other was abandoned. We, as an organization, find it particularly appalling that the government has chosen to do this, to toss out plan A before plan B is in place.

**The Chair:** We have three minutes per caucus. Government caucus, are there any questions?

**Mr John L. Parker (York East):** You commented on the privatization elements and the fees and you suggested that the Attorney General should be setting some sort of fee. I would have thought that what would happen here is if the director wanted to retain a private collection agency, he'd shop around in his area, find someone suitable, make the best deal he could and go with it. That might change from place to place and from time to time. What sort of mechanism do you have in mind? What sort of plan do you envision for setting up that regime?

**Ms Bass:** We don't particularly have a plan. I think our plan was to have the Attorney General set some sort of standard fees so that regardless of where you were these would be the charges for the costs that would be involved.

**Mr Parker:** Would that be in the statute or would that be in regulations?

**Ms Bass:** That I'm not certain about.

**Mr Parker:** Then how would the fee be established?

**Ms Bass:** Not being a legal expert, I would imagine it would be something probably for the regulations. If you put it in the statute, then you can't really change it very well without going through an act of Parliament. So I imagine it would be something that would have to be open to fluctuation over time.

**Mr Parker:** What I'm getting at is, you seem to be suggesting that there's something lacking in the legislation. I'm looking for some guidance on what you would like to see and how it would work.

**Ms Bass:** I guess the concern we saw was that one area would have one set of fees, one area another set of fees, and the shopping around business — I'm not really sure if that's particularly appropriate. If you had something where there were lower fees or something, presumably that's where everyone would be going. I'm not sure how that would work. We were looking for some kind of regulation that would be standard, say, across the prov-



ince. There wouldn't be maybe a bidding war or something from one private agency to another that may in fact reflect the amount of service they're going to do.

**Mr Parker:** Wouldn't that be desirable, though, to get the competing providers to bid against one another and then go with the best bid?

**Ms Bass:** Cheaper is not always better.

**Mr Parker:** No, the best bid.

**Ms Bass:** But how do you clarify "best"?

**Mr Parker:** I'm asking you.

**The Chair:** Thank you, Mr Parker. We'll move on.

**Mr Patten:** Thank you for your presentation. I would like to follow up in the area of the possibility of privatization of some of the services. We have before the committee a letter from the privacy commissioner, Tom Wright, who has two concerns. Quickly, his first concern is related to the broad base of government-held information to which the director of the Family Responsibility Office would have access and suggests the limitations that should be adopted by the bill.

He goes on to suggest that the second part of that is information that may be available to a private source, which of course means in the private sector, that it would not come under the legislation that the government would come under and therefore could be disseminated in other areas, and he has a recommendation on that. I wonder whether your body has had a chance to review the access to information, and in the possibility or probability of privatization, whether you would have concerns around the sharing of information and the kinds of information.

**Ms Bass:** Let me see if I understand. The question is, do we have concerns that if enforcement was put into privatization, private agencies would have the right to information that in the past only the government had? I don't think we have addressed that particularly. I would say that we likely would not have as much concern with that if we were satisfied there were some kind of guidelines for qualified people that were involved.

Personally, I'm an insurance adjuster and in the course of our investigations we uncover certain information that the average person doesn't have, but we're under a certain code of ethics not to toss it around at cocktail parties. I would suggest, if you're putting this thing into private hands, that there would be some sort of code of ethics that I, as a professional, would be bound under that they would be as well.

**Mr Patten:** The commissioner recommends limiting this office to only certain kinds of information. There are nine — I would be happy to share it with you because I think you may have an interest in it — and that also would be applicable to any private agency. For example, they would not have access to medical records or any such information that could be used in other manners to threaten or bribe people or whatever.

**Ms Bass:** Yes. I guess the position that I would see us being in is that one of the things we like about this system, and it is one of the things we have said before, is that we believe that where the parties can reach an amicable agreement and the payments are made, they're not part of the system. That's what we like about this, that they're not automatically in it. I would have to say that when a party refuses their obligations to support their

family, then they subject themselves to losing certain rights that they may or may not have thought they had.

**Mrs Boyd:** I draw your attention to sections 57 and 58 of the act, which cover fees. Subsection 58(1) clearly says the director shall not charge any fee to any person for his or her services, except as provided by regulation, so it's not a problem. Also, the assignment of anything to a private agency may, under subsection 4(3), despite sections 57 and 58, set out the fees, costs, disbursements and other charges. So it is covered in the act and that may give you some comfort, I hope.

You may know that we're against the opt-out process. One of the reasons for that is that there's no protection against coercion under the opt-out, and in order to opt back in, that's something the recipient has to do automatically. We would be looking at some situation whereby it would be an automatic trigger if the person didn't pay. They would automatically come back on to the system. Do you think that would be wise?

**Ms Bass:** Coercion certainly is a problem. I guess particularly in the case of how intrinsic it is with battered women, that certainly is an issue, and that is an intrinsic part of the whole problem with laying charges. I think that would probably be something we would want to look at and would probably be something we could support, because it would imply that it's based on performance as opposed to the free will or the goodwill of the individual.

**Mrs Boyd:** I think in amendments we'll be looking for some way to do that and also some way to trigger the refusal of a judge to allow non-registration in the plan, to allow withdrawal in the plan, although that's difficult because it appears to set limits on a judge and that's something that legislation ought not to do. We'll be looking for that kind of protection through amendments to the act.

**Ms Bass:** I think that's probably a very good point.

**The Vice-Chair:** On behalf of the committee, I would like to thank both of you very much for your presentation here this evening.

Next on the list is Terry Roy. Is Terry Roy here? Not yet.

1810

CAROL JABALEE

**The Vice-Chair:** We will move on to Carol Jabalee. Good evening. You can begin any time.

**Ms Carol Jabalee:** My name is Carol Jabalee and I've come here tonight to speak in support of Bill 82, which proposes changes to the family support plan under the new direction and the Family Responsibility and Support Arrears Enforcement Act, 1996. I thank you for the opportunity to present my particular situation and how I believe Bill 82 would benefit not only myself but others, and I thank this government.

Through my membership with Families Against Deadbeats, I have learned that my situation is common to other women whose husbands are self-employed. At the time of my separation in May 1991, I had the day-to-day responsibilities of the three children of the marriage, aged eight, 11 and 13. My husband was an owner of a packaging business and, in accordance with our separation agreement, he was responsible for his business. As an



owner, he had derived an income of over \$100,000 per year for the previous four years. However, after our separation he allowed his business to wither while opening and incorporating a new business with the same customers and the same products under the name of his live-in girlfriend. In this way he was able to maintain that he received no income.

He stopped all child support payments and business loan repayments in 1994. This placed me in the position of making the business loan payments to prevent foreclosure by the bank. Although I was working full-time, my income was not sufficient to maintain the livelihood of myself and three children as well as paying off the business loan and the house mortgage. In desperation, I turned to the family support plan at that time for help. I sought and received financial help from the children's maternal grandparents, that is, my parents, and eventually I sought welfare assistance, qualifying for social benefits.

I did not realize at the time that there was very little legal enforcement or solutions to make my husband stop his deliberate financial abuse of his family. After agonizing phone calls, faxes, letters and visiting the family support plan during the next two years, from 1994 through to the present time, there are still no moneys being received from the children's father. I was soon learning that the law was helpless in the face of my husband's open defiance and perjury. My husband had threatened that he could destroy me financially and vowed he would give me not one penny. The realization that it is the children who suffer did not weigh in his decision to neglect his parental responsibilities.

Only strong enforcement proceedings will have an effect against attitudes of this nature. Unfortunately, many men consciously make this type of decision. In fact, my husband claimed in court documents that he had nil income. Six months later, during which the family support plan demanded financial disclosure from his company, or his girlfriend's company, they received a company financial statement and admission, in March 1995, that he, as an employee with a business card which read "president," did indeed receive income for the year 1995. However, even with blatant evidence of perjury, the courts are reluctant to do anything, and as of the present time nothing has been done.

Enforcement measures proposed in Bill 82 would give the Family Responsibility Office the power to stop this type of hiding of income and assets under a third party. I believe that if Bill 82 were in effect, many mechanisms would be in place to alleviate our financial struggles. The threat of losing his driver's licence would have eliminated numerous default hearings and, I am confident, would have been successful in obtaining moneys.

My husband's latest threat has been that he will move out of the province to Nova Scotia, if needed, and take the youngest child, Michael, with him. For me and other women whose husbands are self-employed and independent, Bill 82 contains measures to stop these kinds of threats. Enforcement in the form of losing one's driver's licence, the threat of jail, the elimination of hiding assets resulting in their exposure through third parties and the legal stopping of a move made just to avoid child support, all these measures will help to bring the children,

myself and the children's maternal grandparents relief in the form of desperately needed support moneys and lend some sense of justice for all concerned.

Bill 82 offers hope that in 1997 my eldest may be helped in her educational goals at the University of Waterloo and that her younger sister and brother will also gain a father made responsible for their education and their needs. I am hopeful that Bill 82 will help to give incentive to the Family Responsibility Office to bring wilful deadbeats into a comprehensive court system which will have the tools to enforce this responsibility towards children.

Instead, the reality of our plight has been tragic, and it continues today. By September 1995, the children and I were in desperate straits. My parents, who had been helping us financially and emotionally, could no longer continue to drain their savings and RRSPs with no legal end in sight. Although the family support plan had been successful in bringing the children's father to five default hearings from July 1995 through to November 1995, the results were not fruitful. Default hearings last for approximately three minutes. My husband would state he had still not obtained financial statements or that he had no income yet from the business, and each time his excuses were accepted and a new judge and a new default hearing date was set. It was extremely clear how hopeless the law, the courts and the government at that time were in the face of a father who refused to support his children and breached court-filed documents.

The economic impossibilities I was left with created tough emotional burdens. It is confusing and frustrating to adults caught in this situation, but to children it is damaging. The mortgage loan payments and the business loan payments which my husband had also stopped paying could no longer be maintained. We, the children and I, were forced to sell our home. It had been our home for 10 years and the move was tremendously difficult for all of us. Had the family support plan and the court system been more effective, this tragedy could have been averted. Had there been a Bill 82 during this time, the loopholes and the blatant lies from the payor would not have been tolerated.

The loss of our home in November 1995 also brought further financial losses in that the balance of the business loan, which was the responsibility of my husband and his business, was left owing after the house was sold. A shortfall of \$30,000 was left, for which I must make the payments. Again, Bill 82 would stop the fraudulent diversion of business assets to his girlfriend, along with credit card access and banking arrangements.

Enduring all the financial losses and the unfairness of our situation, the four of us moved on November 23, 1995, into my father's and mother's home in Bramalea. The children experienced a change of schools, friends, parenting and, as I now speak, the adjustments have been fraught with difficulties. The sacrifices and adjustments of my retired parents have been difficult, and not necessarily understood by children who, throughout this financial deprivation by their father, are growing up despite the injustices and now, as adolescents, are not quite able to make sense out of the struggles. The financial situation has been so extreme that it has jeopardized my parents'



financial stability and the health of my mother. She has been diagnosed with lung cancer.

Will tough measures alleviate our burdens? Will Bill 82 work? I do have the short-lived proof that tough measures worked in my case. There was a sixth default hearing in October 1995, and then on the seventh default hearing in December 1995, a compassionate judge decided to order the children's father to pay towards their support. This judge, in his wisdom, ordered the payments despite the fact that my husband's lawyer stated my husband could not be present because he was in New Brunswick conducting business and hoping to receive income to help his family. The judge's words are still with me. He stated: "Hope does not put food on the table. Someone must take care of these children." It takes money to care for children, and if the payor is travelling and conducting business, it begs the question, where is he getting this money? From his back pocket? The wise judge ordered this absent defaulter to pay some child support moneys under threat of a 10-day jail sentence. He was to pay these moneys every month until the date of the next default hearing four months away. He made the four payments.

**1820**

Although the payments were ordered too late to save our home, the payments did not last long. I might add here that while we had just gone through the trauma of moving and I had taken time off work to attend at the above court hearing under much stress and strain, the children and I later learned that my husband was actually in Florida that week, in December 1995, on a sailing holiday. This is a man without a conscience, and because of one man's irresponsible acts, so many costs are incurred and lives are affected.

The reason the financial assistance and obligation by my husband did not continue is due to the fact that four months later, in May 1996, another family court judge presided over the default and pre-trial hearing. This shortsighted judge did not see to enforce the status quo and reinstate the same payment orders. All our efforts died when he set a trial date for both the family support and myself to attend exactly one year away, in May 1997.

This lack of an order by this judge has affected six family members tragically. It is truly unacceptable and unbelievable that for two years and eight default hearings we witnessed an expensive waste of taxpayers' money, a waste of time in wages for all the legal counsel workers from the family support plan, including welfare employees and their representation time and effort at all the court hearings, and all the while the financial destruction of a family was allowed to occur. How sad. How truly unacceptable.

I believe Bill 82, the new family responsibility enforcement act, will help to educate the courts and compel judges to make decisions which will ensure that at least some ongoing support payments are ordered. Even a figure of \$50 per child per month would help to send out a clear message. To order nothing and accept nothing is condoning behaviour which is criminal.

In conclusion tonight, the short-lived financial relief that my family experienced in January 1996 came to an

abrupt end simply because the order of a judge was not reinstated or enforced. My husband soon learned that if he stopped paying, the threat of jail no longer applied. Had the family support plan and the court system been more effective, this could have been averted.

The majority of men who are self-employed are more aggressive than the average complying payor. These men who defiantly decide not to pay towards the support of their children like to call the shots. They are used to being in control of a situation and they do control it quite easily if there are no countermeasures to stop them.

As I stand here tonight, I have received no child support money since January 1994 save for the four months ordered forcefully by the courts. Therefore it is imperative that along with Bill 82 there is strong co-ordination between the Family Responsibility Office and the courts. The importance of their roles as enforcers is paramount if Ontario as a province will see an end to the irresponsible, neglectful and unconscionable acts of deadbeat parents. This government must come to recognize that the unreasonableness of these neglectful parents can only be addressed with tough measures and cannot be minimized or diluted as being about disagreements between spouses. This is about the poverty of single mothers and children, a massive social problem demanding solutions. Enforcement measures within Bill 82 will make a tremendous difference in ending this poverty.

I also strongly believe that the enforcement of Bill 82 will further raise the public's awareness as they witness the correcting of irresponsible and unacceptable behaviour by deadbeat parents. The strong measures provided in Bill 82 will be effective in ending the financial neglect and betrayal experienced by children, and in turn, these new laws and measures will create an attitude of zero tolerance against wilful financial neglect of children. It will no longer be accepted, rationalized, tolerated or excused. Bill 82 will make a difference to children. I thank this government for listening.

**The Vice-Chair:** Thank you, Ms Jabalee, for your presentation. We're going to move on to questions now. We've got about two minutes per caucus, starting with the Liberal caucus.

**Mr Hoy:** Thank you very much for your presentation. It took some courage to go through your history, your family's history and of course the history of your husband. You did state and point out certain areas where you think Bill 82 would be a benefit. Certainly, there are areas where it's better than what we had —

**Ms Jabalee:** Previously.

**Mr Hoy:** — prior to this.

**Ms Jabalee:** If it's enforced, yes.

**Mr Hoy:** Yes, if you can enforce it. The sheltering of moneys and the hiding of moneys has been a problem in your case. I don't believe you spoke to arrears. This bill has, I believe, a loophole in it where arrears can be written off or forgotten about.

**Ms Jabalee:** Rescinded.

**Mr Hoy:** Do you have any comment on that?

**Ms Jabalee:** My comment to that would be that I guess there should not be that loophole, because to me it's what you would call damages. It's something that you owe. If you do something wrong and if you run away or



you continue to do it — in other words, the bigger the mistake you make, the better it is for the person who's doing wrong, because then they get away with it. Somehow that rings wrong with me. They should always owe that support. Those children, even if they're married and they have children of their own, should have gotten something. I can see where it's going to be written down possibly, but it's like you can financially kill them and it's okay. I have a hard time accepting that.

**Mr Tilson:** Mr Chair, just on a point of clarification: No government has the jurisdiction to repeal an order or to say that outstanding arrears are gone. Our government doesn't have the jurisdiction. No government can do that and this bill doesn't do that.

**Mr Ramsay:** But you could refuse to collect.

**Mr Tilson:** Yes, that's possible, but we cannot say that the arrears that continue to mount — or indeed vary the amount. We don't have the jurisdiction to do that. We can't interfere with a court order.

**Mrs Boyd:** Thank you very much for sharing with us. Your story we hear just too often. It's a very, very sad thing. I think some of the provisions will work, but as you say, enforcement processes are going to have to go ahead. One of our concerns in this bill is this proposal that the director be able to refuse to enforce, and a couple of the concerns are if arrears are large and of long standing and if the person leaves the jurisdiction and is hard to find. I think you're a little nervous about both those things in your case.

**Ms Jabalee:** Definitely.

**Mrs Boyd:** One of the things we believe very strongly is that, yes, those arrears should continue to be kept track of by the plan and enforcement should always be there. It may not be as vigorous after a few years, but if the person comes back into the jurisdiction or earns money in that jurisdiction or it is otherwise collectible, it ought to be done automatically.

**Ms Jabalee:** I guess what I'm saying, I made an investment of 20 years of my life and then I had to continue on my own. Because I took care of the children, I suffer so much because I don't have a career. I have a job that's 8 to 5, but it's still not a high-paying job, and then I have to live in poverty. I have to struggle for the next 10 years until the children are out of the house and on their own. I'm saying I came out of my marriage, if you want, with debts, and to me that money is owing, even to myself. If it's \$30,000 60 years from now, I would like it. It doesn't seem right that he can do all this damage and then walk away. It doesn't seem right.

**Mrs Boyd:** And it doesn't address your issue around debts that were incurred together during the marriage when the other partner walks out on those debts.

**Ms Jabalee:** That's another battle. That's right.

**Mrs Boyd:** That needs to be done in the family law, doesn't it? There needs to be some remedy there.

**Ms Jabalee:** It does, because it leaves me kind of — now what do I do with that? Like you say, it lets them get away with whatever they decide, the way it is now.

**Mr Guzzo:** Ms Jabalee, I want to thank you for coming. I too want to tell you how much I appreciate your frankness and I appreciate how difficult it is. With what I say here, I don't want you to think that I am not sympathetic, but just let me explain one thing to you.

Between the fifth and sixth default hearings there were no changes to the family support plan, there were no changes to the judicial system and no changes to the law, yet after the sixth hearing you had a much better feeling about the system. So I would strongly urge — and I think it would be helpful to you; I only suggest it as a suggestion for help — that you can't be critical of the plan and you can't be critical of the system. You know what happened. You know exactly what happened. You've described it perfectly. You got a judge who had time to listen and could give a damn. That's what happened.

1830

**Ms Jabalee:** Nobody listens, though. You see, when you go in, the judges don't listen.

**Mr Guzzo:** Well, somebody did.

**Ms Jabalee:** But I agree with you. I am not criticizing the family support plan as it was. It did work for me in the sense that they did successfully, like I said, bring him to default hearings.

**Mr Guzzo:** I appreciate that, but all I'm saying to you is, sure, it worked after the sixth one. Whatever happened on that particular date, the sixth one was when you got the jail sentence, the threat of jail, and he had to pay.

Did you use the term "perjury?" Would you use the term "perjury" advisedly? You told us that through perjury you were denied your rights.

**Ms Jabalee:** No, he's just lying. He goes to court and just says he doesn't have the money.

**Mr Guzzo:** Does he lie under oath?

**Ms Jabalee:** Yes, he's lied, because he says he —

**Mr Guzzo:** No, I don't want to hear it. You know what perjury is. You know perjury is a crime?

**Ms Jabalee:** Yes.

**Mr Guzzo:** Do you know it's punishable under the Criminal Code with 10 years?

**Ms Jabalee:** But nobody's doing anything.

**Mr Guzzo:** When you went to the crown attorney and asked that he be charged with perjury, what did the crown attorney say?

**Ms Jabalee:** I didn't ask no crown attorney.

**Mr Guzzo:** Did you go to the police?

**Ms Jabalee:** I've gone actually to the bankruptcy people, because he has declared a false bankruptcy.

**Mr Guzzo:** No, just a minute. Do you understand what I'm saying? Nobody told you to go to the police, nobody told you to go and lay a charge of perjury, correct?

**Ms Jabalee:** No.

**Mr Guzzo:** Think about it for a second. Don't worry about it because it wouldn't have helped. In matrimonial cases, they won't enforce perjury. If you lie in an automobile accident, you can go to jail for five or 10 years. If you do it in a matrimonial case, it's like spitting in the face of an umpire in front of 30,000 fans. You get away with it. That's not assault, but try it at your home and watch how fast you're charged with assault.

**The Chair:** Our time has elapsed.

**Ms Jabalee:** This should not be a private matter, though. It's a public matter now anyway. He's not just lying to me, he's lying to children and parents.

**The Chair:** Ms Jabalee, thank you very much for your presentation here today.

Is there a Terry Roy present? No?



## ANTONIA BELLONE

**The Chair:** Antonia Bellone? We've had a no-show, Ms Bellone. If it's okay, we can adjourn, but otherwise you can go now.

**Ms Antonia Bellone:** Okay, good. I don't want to think about it too much.

My name is Tonia Bellone. I am the ex-wife of a club owner. The club is called Paparazzi. It makes a lot of money. He also owns an auto leasing company. He owns many other companies. Whether they be now in his name or not, I see no support.

I came from a marriage where we had it all — life-style. I'm not going to put him down, he can keep it, but at the same time, there's no reason why my children should not get any child support and why I should live in poverty. He has hidden all his assets under limited numbered companies. Somehow he doesn't show any more, but he's still driven in the same limo that was ours before we split up, even though he signed an affidavit swearing that he sold this limo to pay GST and PST. I proved, by following him, taking pictures, taking licence plates, going to the Ministry of Transportation, proving that this limo was never sold. It's still somehow connected to him. So is Paparazzi, so is the auto leasing company, so is the Mercedes with the dealership plates that he drives. He's not the one driving the Suzuki with rust falling off every time I open the door.

I don't care, so be it, but my children should not have to go through the mental and the physical — because to me it's abuse. If my children have to have pasta, bread and potatoes every single night, so be it, but you know what? If he's going to go around saying he's poor, he'd better be poor. You can't go around taking out a wad of money and partying with Dom Perignon on the weekends, and I know it. I'm not going to go take a picture of him doing that because I'll have my legs broken off, period. I'm not going to do that, but I know for a fact I've seen him in the limo; the limo still exists. This man has hidden properties, money, everything. You name it, it's hidden, and this is the only way Bill 82 is going to help.

The family support plan has worked, but for people who are law-abiding citizens, for a person who works, gets a paycheck, who has fear of the law, who respects the law, but not for people like my ex-husband, who has no respect for the law. He is a criminal. He is the same person who will take advantage of unemployment, workers' compensation, welfare. You name it, he'll take advantage of it, and not only will he take advantage, he will teach other men who go to his club: "Do you know how to rip them off? Ha, ha, ha." I know this because I've lived with him 25 years, and if I don't know it, nobody knows it. It's men like them who have to be stopped.

I'm not talking about these poor people who do work, and I know some of them. I even know a woman who makes \$300 a week; half of her cheque goes to pay for her children. The poor woman lives day by day, and I feel sorry for her, I really do, but she's got children. When we make children, we make them together, and your obligations to your children don't stop just because you separate with your wife or your husband.

My husband said one sentence the day I left him. He said, "If you leave me, I will put you on welfare." I turned and said, "I'd rather be on welfare than have mental and physical abuse." You know what? That's exactly where I headed for — welfare. But that's fine, I can deal with that. It's my children; I don't want to see them suffer.

Another thing: There was money hidden — not even hidden; it was in banks. If I hadn't led the family support plan by the hand and said, "Look in this bank" — only because I followed him around, and I saw him going in and out of certain banks. I said: "You know what? Take a look in those banks. See if you can find anything." My husband is notorious for having a safety deposit box full of money, cash. They found \$54,000, and it wasn't even hidden; it was in his name. It had been sitting there since 1991. No one saw it, no one knew about it. It was just luck.

The family support plan works, but it doesn't work against people who know how to hide their money, and they're usually the people who don't pay their taxes either. This is the only way you're going to get him. He's still driving the Mercedes. He goes on vacations twice a year. I will follow him to the airport, I will take down everything, bring it to the judge. You know what he'll turn around and say? "My girlfriend paid for it."

"Your girlfriend has been a stripper for three years and she hasn't worked for five, so how did she pay for you? Can you explain that? How can you explain she drives your Porsche or your Mercedes? Even though it's not in your name, it's in another leasing company name. God, you must be the luckiest man on earth to have all these people who want to let you drive their car. You're responsible if you smash up that car, insurance or not."

He's a very lucky man if he has all these generous friends who let him drive the Mercedes that's not in his name and let him live in these houses that are 4,000 or 5,000 square feet. To me, it's just too much luck. God, send me some my way, because I don't have any.

I just feel that the law only works for people who are law-abiding citizens. People who have no fear and are criminals, it's not going to happen. I have spent \$23,000 in lawyers' fees, which I don't have to begin with, to get five court orders against him. He has practically used them for toilet paper, because he has ignored them totally. I've got \$23,000 worth of court orders, and that's it. It's not going to be enforced. What's the use of getting a court order if you're not going to enforce it? He's the type of man to whom you have to say: "You can't run. You've got to pay your taxes. You've got to pay your car insurance." He's even driving around with no car insurance. He doesn't care. He just doesn't care.

That's why I think this kind of bill will help that percentage of people who are on welfare or whatever they have to go on because these men, whether it be pride — I don't know what it is exactly. They're mostly men — there are a few women; I'm not going to say there aren't women, because there are — who just refuse, plainly refuse. I would just love to take a group of you one day and follow him. I would love to do that, just follow him and just see where he goes, how much money he spends, the designer clothes he wears. God, you can



wear it; I don't care. That is not the most important thing in life.

The most important thing in life are my children and the children of my children. I don't want them to go through what I'm going through. You know what? Some way, somehow, they will find the food to eat, because my parents will not let them go hungry. But why should it be my parents? What happened to his parents? What happened to his brother, who's probably hiding property? You know what? I could bring you all and we could all look, and we'd find it. But I need the people to back me up; I can't do it by myself. I'm just one person. I don't have the money. I might have the ability to know where to look; that's about it. But I need the law to stand behind me.

**1840**

As far as getting any more court orders, I give up. I'm not going to court any more, because I don't have the money. My lawyer, first of all, doesn't really want to represent me any more anyway. A lost cause? What for? He's not going to get anything from me. From \$4 million, right now I own a Suzuki that's worth \$1,000, which is fine, but don't punish my children.

Another thing I've learned in the past: Animals have more rights than my children. If my ex-husband left my cat in a room and did not feed it, did not keep it warm when it's freezing outside, he'd be arrested. But you know what? He more or less has done that to his children, because he's not paying for their food, he's not paying for their shelter. Therefore, really, he's abandoned them just like you would abandon a cat or a dog. He doesn't get sent to jail. But I bet you if I did it to my cat or dog I'd be sent to jail. So, you know what? They have more rights than my children do.

I'm not saying the family support plan doesn't work. It does work, but it only works for certain people. That's why maybe we should widen our horizons just a bit and maybe look here, because we're here to tell you that it's not failing totally but we need to widen our horizons and look in different spots and help different people in different ways. These children came from riches to rags. You know what? They might be the ones who are going to rob the banks tomorrow, because they're the ones who are used to having this and this and this, and all of a sudden, "Mom, I need a pair of socks." "Well, honey, let's sew up those ones you have, because you can't have them." He might just be that child who might sell the drugs just to get that \$2, because he's used to that \$2 in his pocket. Hopefully not, but that could happen.

I'm just saying we should look at this bill and really think about what it can do for people like me and a lot of other women and men who are in my position, who have come from men and women with power, money and knowledge of how to hide and get away with things. We won't become welfare people, we won't go on unemployment; hopefully, we can help our children. That's all I have to say. I can only tell you my experience.

**The Chair:** Thank you. We have three minutes per caucus.

**Mr Kormos:** Thank you, Ms Bellone. Chair, I feel compelled to respond to Ms Bellone, because here you are, one of several representations here today. You've

dramatically and eloquently, as have all the other participants, talked about the reality of your life in these circumstances. It's something I'm sure other members as well have heard in their constituency office weekend after weekend after weekend. I've spoken about it in the House, about women inevitably, who come in with legal fees of \$15,000, \$20,000, to the point where the lawyer says, "So long, it's been good to know you," and all they've got are a couple of orders that are unenforceable.

You also mentioned the phenomenon of "Locks are for honest people only." If you're a break-and-enter artist, a lock means nothing to you, because you know how to pick it. Locks are for honest people. If your ex is the kind of guy who's going to drive without insurance, heck, the Ministry of Transportation could suspend his licence, but he'll probably drive without a licence too, right?

Maybe this whole exercise over FSP and over Bill 82, because Bill 82 is not a panacea for the problems, should operate as a beginning point to start addressing some of the real problems, perhaps a review of the Family Law Act, some guidelines for judges when determining the quantum of support, because, again, one hour I'll have a woman in who's getting \$20 a week per kid and the next hour I'll have a woman in similar circumstances in getting \$100 a week per kid, and I'm going, "What gives here?" Sometimes it's the same judge.

We've got a judge down in Welland in the family court who, as he gets older, is becoming more miserable and more curmudgeonlike, but he is inclined to send defaulting people, husbands, to jail. I asked him once, because I thought it was pretty miserable and curmudgeonlike of him to keep on doing that, and he responded to me by saying that he's never sentenced a person for non-payment of arrears who hasn't come up with the money in relatively short order. None of the men he has ever sentenced to jail have served out their full sentence without ever coming up with the dough.

As I say, I'm responding to you rather than asking you a question. Bill 82 is not the panacea, it's not the solution. It's going to help, but we'd better readdress how support orders are arrived at, how the courts are enforcing them and whether there's uniformity across the province in terms of one court to the next so that we avoid the sort of problems you're talking about, that the deposition before you was talking about, six court appearances and only one sentence to jail. Maybe that's where we should be going with this. I appreciate your contribution.

**Ms Bellone:** May I make a statement?

**Mr Kormos:** Sure.

**Ms Bellone:** The only thing my ex-husband is afraid of is jail, and I have asked for it time and time again and I've never got it. I keep saying, "Trust me, all you have to do is just threaten to put him in jail and he'll come up with the money like this," but no one listens, so what can I do? I can't put him in jail myself.

**Mrs Marland:** Ms Bellone, maybe I missed it, how long now have you been in this struggle? Did you say 10 years?

**Ms Bellone:** No, two and a half years.

**Mrs Marland:** Oh, I'm sorry, I didn't hear that. The point is that I think what I'm hearing this afternoon is



that the existing law hasn't worked, because you've been working under the existing law for two and a half years. I'm also hearing that Bill 82 will be a substantial improvement, that it will present some remedies for some of the cases that we have. But I also think it's very important when you tell us how laws are respected by some people and, of course, not by others, even to the point, you said, where they have the power and the knowledge, they know how to get around it.

It may be that Bill 82, if we can get it passed and get it through and proclaimed and start using it, won't solve everything, but we can keep amending it to improve it. Frankly, it doesn't matter what law you look at, the fact that our laws ultimately are enforced by judges who sit on benches — and we have a former judge who isn't sitting here at the moment, so it's probably safe for me to say this — there are some judges who shouldn't be continuing to serve.

**Mr Ramsay:** It's a good example.

**Mrs Marland:** No, no, he left voluntarily. I'm really digging myself in here. But very sincerely, and in reality, with these hearings, we're dealing with people's lives. We're also bound to deal with a process, and that process is a legal process. Legislatures pass the laws, and the enforcement and practical application of those laws is no longer in the hands of the Legislature, it's in the hands of the judiciary. If the Family Law Reform Act needs some amendments as well to address — maybe there's a coupling here of two laws that need to be dealt with: the Family Law Reform Act and anything dealing with family support.

I think the most telling analogy that you give, frankly, is the very good analogy about the protection of animals. I gave the same analogy in fighting for my drunk driving legislation for two years, because wildlife and fish are protected better than people from people who disobey the law. So, I'm very appreciative of the perspective you've brought to us this afternoon, because you did it extremely well. I won't forget what you've said, because I think all of us are only more and more aware of the problems that different families have faced, in some cases, as one of the other presenters this afternoon said, for 20 years. None of the laws we've passed up to now have been the solution, but we'll keep trying to do it better.

1850

**Mr Ramsay:** Ms Bellone, thank you very much for coming in this evening. Your case is very interesting, and with having spent so much money in legal fees and being able to get four judgements, I think you said —

**Ms Bellone:** Five.

**Mr Ramsay:** Five judgements — yet not getting anywhere with them, I would like to direct a question to staff: Under the new legislation, will there be the investigative resources to enforce these judgements so we get this money?

**Mr Tilson:** The program will do the enforcing.

**Mr Goodman:** One of the other new initiatives in the legislation is the enhancement of the right to demand information about a payor. Previously and currently our only right is to demand the location and name and address of an employer. The amendments to section 54 will allow us to demand particulars about financial

situations, assets and liabilities so that if there are bank accounts out there we'll be able to send demands to banks to find out if there are those assets available. That's a major improvement to the kind of information we can get.

**Mr Ramsay:** That takes care of those bank accounts. But how about a case where the person is self-employed, in this case has his own business operation, maybe other businesses like the leasing company we've talked about? Will you have the capacity to track those down and enforce those court orders?

**Mr Tilson:** Presumably, Ms Bellone, you would be providing the plan with some pretty broad hints as to where assets are and that the plan would take that information and endeavour to collect, whether it be hidden bank accounts or whatever.

**Ms Bellone:** I already have, and that's the only reason why I got something, but there's a lot more out there. In a way, sometimes I'm kind of afraid.

I had to chase the man on the 427 to get half my furniture back, with a court order saying he was not to touch any of the furniture in the house. He just came in, even though the police warned him, "Do not touch any of this furniture." As soon as the police left, in one hour he had everybody back and the house was empty. I followed this man for 45 minutes on the highway, risked my life and thought: "God, I see officers every day. Where are they today?" Just as I finished saying that phrase, they came by and I ran after them, they in turn stopped the truck and I had five policemen everywhere. I got half my furniture back. We had two trucks. One went this way and one went that way.

How much of this can I do? I'm only one person and I am a woman, and he's a man who has a lot of power. I only have guts. That's about it. I don't have power.

**The Chair:** Ms Bellone, thank you very much for coming in today.

**Ms Bellone:** You're welcome. Thank you for listening to me.

#### SUPPORT FOR CHILDREN: AN ORGANIZATION FOR PUBLIC EDUCATION

**The Chair:** We're a little ahead of time. Judy Poulin of SCOPE, Support for Children: An Organization for Public Education, has agreed to proceed at this time. Welcome, Ms Poulin. You have someone with you. If they are to take part in your presentation you have to identify them for the purpose of the record.

**Ms Judy Poulin:** This is a member of our committee. Her name is Rosemary Clarke.

**The Chair:** Thank you very much. Please proceed.

**Ms Poulin:** SCOPE is a non-profit organization committed to improving the lives of children after a separation occurs. We're based in Ottawa but we have members throughout the province. Currently our membership list is around 3,000. We started the organization simply because of the problems most of us were having with the collection of child support. We've been around for about six years and we've been really immersed in this issue of problems surrounding collection.

Although we are pleased with some of the changes proposed in this bill, we have a few concerns which I



will outline here. Since I only have 20 minutes I'm not going to take the time to say what I'd like.

The first thing we'd like to talk about is the assignment of the director's powers. We have concerns about this. Although we agree there are some instances where the private sector could do a better job of collecting arrears, we want to make it clear that under no circumstance do we support a system which takes any part of court-ordered support payments to pay for such services.

Since we know from current stats that many existing support orders are too low, and we cannot afford to have them reduced even lower by removing money to collect child support, charging the support payor would seem appropriate in these cases, but we are concerned that these charges could hinder his ability to pay child support. So we have some concerns around that issue.

Practical enforcement: We have a lot of concerns around this. We feel that the only valid reason for closing a file would be if the payor is deceased and the estate has been distributed. All other reasons that are listed in the compendium that I have we feel are not acceptable. Under no circumstances should the Attorney General's office have the ability to close a file.

I'm just going to go over a couple of things they listed. In a case where an order is ambiguous or unclear, all attempts should be made to clarify this order. I think we need to look at educating lawyers so we don't end up with orders that are ambiguous or unclear. Judges have to take some responsibilities as well, that when the orders are going through the courts, they become clear and precise.

It's not fair to our children to allow the plan to close a file because of a poor job done within our legal system. This is just hurting the children. We feel that the problem could be resolved with the implementation of standard clauses and phrases when it comes to child support specifically.

Other issues, as far as divisions of assets and that sort of thing, could be worked out separately. But when you're looking at child support awards, I think it would make a lot of sense to come up with standard phrases so that the plan doesn't then get into this ambiguous and unclear situation.

Closing a file because of long-outstanding arrears: We're very concerned about that. First of all, who is going to make the determination of what fits into that category of long-outstanding arrears? I think we need to step back a little bit and look at how this file got to be long-outstanding and what things we can do to prevent that from happening. I don't think it's fair to say, "Because there are long-outstanding arrears we're just going to close the file." We have big concerns there.

Another instance where they say they may close a file is where the recipient has accepted direct payments from the payor. We think this is very unfair. For a recipient who is perhaps in arrears to have to turn down money simply because a family support plan will close their file if she accepts it is not acceptable. She may be behind four or five months, and if he's there offering her money, I don't think you can say to her, "Oh, you can't accept that or we're going to close your file."

The onus needs to be put on the payor to make sure it's his responsibility to let the plan know if he's made

direct payment, and if he makes direct payments, perhaps there should be some kind of fine or penalty imposed. I don't think it's fair to penalize the children and for the mother to have to say, "No, I can't accept this money," when it's there and it's being offered to her.

In general we feel that the power to close files being given in this bill needs to be very closely looked at. We don't think it's fair for the Attorney General to close files at all. Perhaps there are instances, if the payor is incarcerated, that the file could be set aside to be brought forward at a certain date, or if the payor is on welfare the onus needs to be put on the payor to keep proving to the plan that he is on welfare. That way we can track things, but closing a file, to us, is very dangerous and it's not fair.

The other problem we have is with the party's ability to withdraw. When the plan was changed to include support deduction orders it was made clear that the reason they would not allow people to withdraw, unless there were special circumstances, was so that everyone paid their child support the same way, and there was no stigma attached to a payor who had a support deduction order. Everybody was paying that way.

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I think in making this change, we have taken giant steps backwards. Instigating support deduction orders made a very strong statement. We said that child support was just as important as paying your UIC or CPP, that it had to be paid before you paid your Visa bill or got your car fixed or whatever. It made a very strong statement. I'm very concerned that by allowing this change, we're going to open the door to defaulters. Realistically, look at the compliance rate we have now. It's very low, so why would we even consider opening the door to let other people default? We don't know what percentage of the compliance we have now are paying only because it's coming off their paycheque and they're being forced to pay that way.

We also have concerns about the power imbalance this would create. When a woman is in a situation of separating, she's very vulnerable. She has to deal with many issues, and we feel that this just puts another issue on the table. It's something that payors will be able to bargain with. They'll be able to say, "If you don't put me on support deduction orders, I'm not going to go for custody of the kids," or "If you don't do this, I'm going to give you this much." It's another tool that's going to be used. For a woman who has been abused but maybe not obviously abused, because there are a lot of them out there, it may not be as obvious for a judge to see that she's being forced to do something she may not be aware of. She may not be fully informed by her lawyer. She may not know the implications of not being registered with the plan. That's a big concern we have.

The last one is the ability to charge fees. When rumours started flying about the changes that were being made, one thing that came out was that there were going to be user fees imposed on women every time they made a phone call. I know that has been changed, but we are very concerned that by allowing fees to be charged, without being specific, and I think that's what this legislation is doing, we are opening the door to user fees.



Maybe at this point there's no intention of charging a user fee for a phone call, but our concern is, what will happen in the future, and how far are we going to go with these user fees? It's very unfair to expect women who are in situations where they're trying to make ends meet to pay user fees.

Charging user fees to the payor is a good idea because it's a deterrent factor, as long as it doesn't hinder his ability to pay the child support. Child support has to be paid before any kind of user fee can be collected.

In conclusion I would like to say that our members are very nervous and suspicious of the changes due to the mess the plan is in right now. They have no faith or trust that things are being done in the best interests of their children. We suggest that an advisory group be set up to monitor these changes as well as the ongoing effects they have on our children.

We cannot let this plan break down as badly as it has now and we need to take the necessary steps to ensure that it doesn't, for the sake of our children. Thank you.

**Mr Ron Johnson (Brantford):** I want to thank you, Ms Poulin, on behalf of the government caucus for your presentation. A lot of the concerns you shared with us here are things we're going to discuss as a committee in terms of some amendments that I know will be brought forward by the opposition and ourselves with respect to the bill.

One thing you indicated, though, was a concern with closing cases, which is specifically section 7. Just so you're aware, the minister indicated in his presentation to the committee that he was very open to suggestions from the committee with respect to closing cases and when it should not and should happen. In fact, the legislation, I'm sure you're aware, has some scenarios built in or things that must occur before a case could be closed. One of them you mentioned, interestingly enough, was incarceration for more than five years.

Are there any other situations you can think of where it would be appropriate for the plan to say, "It's time to close this one"? Are there any other scenarios you could think of where it would be appropriate for the cases to be closed, or do you think under no circumstances?

**Ms Poulin:** I think under no circumstances. As I was saying before, perhaps if that person is incarcerated for a certain amount of time the case could be set aside, to be brought forward at a later date. But no, I don't think there is any instance where we should be closing files. I think it's very dangerous.

**Mr Ron Johnson:** It's interesting, the incarceration one as well. Although five years may seem like a long time, if there's a single parent with two or three small children, at the end of that five years I would fully expect the non-custodial parent to start at least contributing to those children again in a meaningful way. I think that needs to be addressed in the legislation. I thank you for your input.

**Mr Tilson:** Just very briefly on the topic of universality, which the government is suggesting we take away, which the NDP caucus in particular has opposed, I'd like to paint for you a couple of scenarios, because you've indicated that you don't like that either. I'd like to just describe a couple of scenarios and get your comments.

We had one woman this afternoon who said that she doesn't need the help of the court, that she and her husband can work out an arrangement and they don't want to be under the plan. Perhaps it has to do with access, perhaps with a whole slew of things: the issue that was raised right now, that obviously if someone continues to accept funds without the plan, then perhaps they don't want to be in the plan.

There's the issue of some judges in the province who for whatever reason — I must confess I question it — make nominal orders: \$1, \$2, something like that, those sorts of things.

**Mrs Marland:** You're criticizing the judiciary as well, are you?

**Mr Tilson:** My question is —

**The Chair:** You don't have time for your question, Mr Tilson; I'm sorry. You've made your statement, in any event.

**Mr Ramsay:** It's very enlightening, though, to all of us in the room.

Thank you very much for coming in. I share your concern about some of these provisions in section 7, especially subsection 7(1)(d), "arrear of long standing are owed under order," that these could be no longer enforced. Just to let you know, for sure the Liberal caucus will be moving amendments to delete that, and I'm sure there will be others coming.

I wouldn't mind using this opportunity to have staff answer why they even considered this, because I share your view. I don't know why you would do this. What was the reasoning of this, that you would allow the director the discretion to drop enforcing a case where there were substantial arrears?

**Mr Tilson:** It may well be that staff may be able to provide some details, but there are obviously situations where it may be impractical to collect. This isn't something new. As I think the Attorney General has pointed out, from September 1973 to September 1974 there were 835 orders cancelled.

**Mrs Boyd:** September 1993?

**Mr Tilson:** Sorry. September 1993 to September 1994, there were 835 cases held off. From September 1994 to September 1995, there were 1,300 cases. From September 1995 to September 1996, there were 1,743 cases. So this isn't something new. There are obviously cases where someone may be in jail. An individual may be in jail and it may be simply foolish to spend great resources trying to collect if there's no income coming in and the person is in jail. The staff may have some other comparisons, but those are some that I could draw to your attention.

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**Mr Goodman:** What's it's geared towards are those cases where all steps have been taken to do enforcement, where nothing has been effective, where all the steps have been gone through. In those cases there's just nothing further that can be done unless something new comes up down the road. That's what it's geared to get towards, those types of cases. It's hoped with the new enforcement that there will be less of those, but that's the type of situation we're looking at.

**Mrs Boyd:** Thank you very much for coming and presenting. I know you've gone very good work with



some of the folks in my part of the world who have needed some support, so thank you for that too.

On the issue of closure of files, basically they can't be closed, really, right now. What they are is suspended in terms of suspension of enforcement.

**Mr Tilson:** No action taken.

**Mrs Boyd:** But they're still there in the plan. I think that's what you're suggesting, that they be there so they can be tickled, hopefully, by this wonderful new system that's going to be there that supposedly reaches into all these various data banks and, if the person begins to appear in terms of the income tax rolls or in terms of paying UI or something, it will alert the plan to put them back on. Is that what you were envisioning?

**Ms Poulin:** That's what I'm envisioning, but my understanding from the questions I've been asking is that it's going to be up to the recipient to initiate those things, and I don't think that's fair. I live in Ottawa; my ex lives in Burlington. How am I going to know if he starts working? From my understanding, the onus is going to be on the recipient to provide new information. Where does that leave the kids? I don't think that's right.

**Mrs Boyd:** And in many cases they don't want any contact; they don't really want to know.

**Ms Poulin:** That's right.

**Mrs Boyd:** They would rather the plan took care of that and then there would be no contact at all.

**Ms Poulin:** Perhaps there could be a system where every two months or whatever they could look at, like you're saying, whether he's paid taxes or look at his SIN number. I don't know the answer to it, but there's got to be a way to not just set aside those cases and not look at them again unless new information is brought forward by the recipient, because she may not have the ability to get that new information. In fact, she often doesn't.

**Mrs Boyd:** On the opting-out issue, I share your concern about the coercion. The minister seems to think this notion that a judge can make a determination that it not be registered — that really doesn't answer the coercion afterwards, does it, or any of those issues?

**Ms Poulin:** No, not at all. I think in lots of cases there's so much negotiating that goes on, and unless you've been through it you don't know the tension that exists and the back and forth, the things that go on. It's just incredible. Why put another tool there to be used against one party or the other? Why open that door?

**The Chair:** Ms Poulin, thank you very much for your presentation here today.

#### DEBBIE SCHIARRIZA

**The Chair:** Our next presenter is Debbie Schiarriza. Welcome. I hope I came close, Mr Guzzo.

**Mr Guzzo:** You're improving.

**The Chair:** I doubt that.

**Ms Debbie Schiarriza:** It was close. Thank you. My name is Debbie Schiarriza and I am a member of FAD, Families Against Deadbeats. I'm here tonight to speak on behalf of Bill 82 and show my total support for this bill.

I have been registered with the family support plan since March 1993. At first, the plan worked well for me. As long as all the information stays the same as when you registered, it works. My ex-husband sold his house

and changed his place of employment in June 1995, and we have been left without support since then. The family support plan leaves it up to the payor to update his or her files if they have made any changes. I asked my ex-husband for his change of address before he moved and was told that if I needed it, I could get it from the FSP. Of course, I cannot.

He had not paid any support in the three years that our divorce was in the court system, even though it was court ordered. Why did I expect him to continue to pay now? Maybe I hoped that his love for his own children would make him realize his responsibilities. I was wrong. Not only does he not support his children; we have no idea where he lives. He has not called or sent any kind of correspondence to the girls for three and a half years. All we know about him is the type of car he drives and the bar he frequents and that he is still living in our area because friends have seen him, and yet he can't be traced for support payments.

I'm here to say that Bill 82 will help. My ex-husband drives for a living. He is a heavy machine operator and is licensed to drive anything from a car to a tractor-trailer to a bulldozer. He would not want to have his licence under suspension, as it is his livelihood. He always took pride in the fact that he had a perfect driving record. He wouldn't want it tarnished. I know that he is working because I called the heavy machine operators' union where he is a member and they confirmed for me that he is working and his union dues are all paid up.

He is \$10,000 in arrears to date, and that money has been taken away from the kids. It gets harder and harder to feed them each month on empty hope and promises. These are court orders that the non-custodial parent ignores. They do it because nothing seems to happen to them. There is no enforcement of the orders. I would have a hard time to renew my driver's licence if I had outstanding tickets, and yet the arrears keep accumulating and nothing happens. We can now have our licences suspended for 90 days automatically for being impaired, and we should, yet the deadbeat can neglect his kids, ignore a court order, forcing some kids to go hungry or without proper clothing or shelter. Are these kids not as important as the ones we're worrying about with drunk drivers?

I truly believe that Bill 82 will help the kids. What kind of example are we showing our children by letting one parent get away from his or her responsibilities without paying any consequences? If we show our kids that they can walk away or hide their assets under someone else's name or company, what kind of role models are we? Kids have a hard enough time growing up with peer pressure. We don't need to add to it with financial burdens or feelings of rejection. I not only have to worry about the wellbeing of my children; I now have total emotional, moral and financial pressures to deal with in order to make sure my children are being brought up in an environment that is healthy for them. Bill 82 is a step in the right direction.

It is the kids who suffer. Let's at least take some of the pressures off their shoulders. If the payor would be forced to hold up his end of the bargain, the children would ultimately benefit. It took two of us to bring them



into this world; it takes two to support them. They are not only my future, they are yours. Let's give them some strong guidelines and examples to follow. If I failed to provide my children with shelter, if I failed to provide my children with food, if I failed to provide my children with the necessities of life, I would be held accountable. What measures are being made to force the support payor to be responsible?

Thank you for your time. I want to express my appreciation to this government for taking the time to listen.

**The Chair:** Could I just ask a clarification? When did you get your order? You said he went into arrears in June 1995.

**Ms Schiarriza:** My first court order was in December 1990.

**The Chair:** Thank you. We'll proceed with Mr Ramsay first.

**Mr Ramsay:** Thank you very much, Debbie, for your presentation and coming out this evening.

You thought the suspension of the driver's licence would be a very effective tool in your case, and probably in many other people's cases, in trying to get enforcement tightened up. Just by hearing these stories, though, and now yours, it must be very frustrating. You had said in June your ex-partner had sold his house and changed his job. You're aware he's around but don't know where he works. We're not detectives, so we can't really start following people and finding out, but it must be frustrating because if you had the information, the system should be able to work.

**Ms Schiarriza:** That's right.

**Mr Ramsay:** But it's a problem in many cases of people dodging around so quickly that it may be you never can keep up with them and find out what the information is so that you can report it to the authorities. This is frustrating for me because I'm not sure, again, how we can do that. The only resources, I would take it, that the plan's going to have in the future would not be sort of investigative at that level. It's going to be still up to you to supply the information. So it frustrates me because I still think some deadbeat dads are going to get away from their obligations. I don't know what the answer totally is, but we're going to keep trying.

The rest of this week and on Monday afternoon we're going to work to try to improve this bill too; all three parties are agreed to do that and want to give it speedy passage so that it can start to be enforced in the new year. I just want to wish you well and hope things work out for you in 1997.

**Ms Schiarriza:** Thank you.

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**Mrs Boyd:** Thank you very much for coming. Your first court order was in 1990, but that was not enforced, I think you said, while you went through the divorce proceedings. Is that what you were saying?

**Ms Schiarriza:** Yes.

**Mrs Boyd:** So it was only in 1993 that you finally got an order that then was enforced.

**Ms Schiarriza:** It was only because our divorce went through.

**Mrs Boyd:** Right. Then, once the divorce was through and you got that order, it was enforced until he moved and you lost track of him.

**Ms Schiarriza:** Because they changed the plan and started garnishing his wages. He had bought out my interest in the house. I received a lump sum payment of the back arrears, but only because I agreed to sell him the house. Then they started garnishing wages. Had they not garnished wages, I would have nothing.

**Mrs Boyd:** You would never have had anything.

**Ms Schiarriza:** Never.

**Mrs Boyd:** That's why think it's so important for that support deduction order to accompany any court order for payment.

**Ms Schiarriza:** I totally agree, but you can't leave it up to them. You can't rely on them to give their information. I believe he's still working for the same employer.

**Mrs Boyd:** Really? I think there are penalties under the act, if that's the case.

**Ms Schiarriza:** But how do you prove it?

**Mrs Boyd:** The issue now in this act, the good news, and I think it's what Mr Ramsay was referring to, is that envisioned in this act are agreements between the provincial and federal governments that would allow access to each other's data banks. That's only possible because the federal government has passed a law allowing that as well. Previously you couldn't get access to the major source of information, which was the income tax, the statutory deduction kinds of plans.

The things you've expressed concern about, once the provincial and federal governments get their act together and once their computers can talk to each other, that should really resolve some of those issues. I think the vision is that there would be a search through all those mechanisms until you came up with the person's identity. So I think there's some really good news.

When I was first in the AG's ministry we hadn't given the plan regulatory authority to collect SIN numbers. We just hadn't done it. It was one of the regulations that we changed. That certainly made a big difference in terms of being able to track people. So each time we make one of these changes, it helps with a few more; it doesn't help with everybody.

I'd like to know what your opinion is of the provisions for people to opt out of the plan or for the plan to close files.

**Ms Schiarriza:** I know quite a few people who have divorced and settled and payment is made via cheque every month. They have absolutely no problem. The kids mean everything to them. The father or mother, the payor, is paying on time, up front, always, and I think you should have that option to opt out if you can be trusted. But you should also have the option to go back into it. There are some people out in this world who love their kids and whom you can trust and there are many you can't. I do think that you have that option.

**Mrs Boyd:** What about the closure of files? There's a whole list of reasons why a file might be closed. You haven't been in the situation of arrears as long as many other people in your group.

**Ms Schiarriza:** No.

**Mrs Boyd:** But it's a real concern to us that long-accumulated arrears might be a reason to close a file.

**Ms Schiarriza:** I don't think it should ever be closed.

**Mrs Boyd:** So you would agree with the previous speaker who felt it should stay there.



**Ms Schiarriza:** It should stay there. It's not maybe going to be their top priority because there's been no action on it, and there are definitely cases that are a year or two years into it and there are little links, so you may be able to find somebody a lot faster. But you have people who have been around 10, 15, 20 years, and chances are, for different reasons, that they're not going to be found right away, and without any measures they're going to keep hiding. But I don't think it should be closed totally.

**Mrs Boyd:** One thing that's really interesting is that the government is trying to find a balance between spending all its resources in trying to track someone who isn't ever going to be found but also trying to ensure there's no incentive for people to disappear, that there's no incentive to make it as difficult as possible, and that's the balance I think most of us are trying to reach. We don't think the bill, as it stands, has that balance. We think there may be an encouragement to go on welfare or flee the jurisdiction. When we're doing our amendments we'll try to make sure that doesn't become an incentive for people to get lost.

**Ms Schiarriza:** How many of us could just pick up and move away to flee something? It's hard to flee. You've got another type of life set up for yourself. It may be away from your first wife and your first family, but it's awfully hard to just pick up and say: "Okay, they're going to come after me. I'm going to change my whole life again." I don't think that many are going to flee. If they're going to go on welfare, they're going to go under at some time, I believe.

**Mrs Boyd:** In fact many flee the jurisdiction.

**Mrs Marland:** I didn't sit in these hearings yesterday. Hearing these presentations today is the first time for me. One thing I must express, and I compliment you too in terms of your presentation, the very fact that so many of you are able to be here, that you have the courage to express to us your concerns and particularly what your experience has been, is that I am in awe of your courage and determination to try to make something right and help us make legislation that would be equitable and could do the best job that government can possibly do. There are always going to be the exceptions, that we can never reach deep enough into a black hole to pull them out. I would like to emphasize that I'm not talking about gender. Whether it's a man or woman of the type we're talking about today, as far as I'm concerned, they must be the kinds of individuals who live at the bottom of black holes with all that involves.

Your dedication to your children, the same as that of the other mothers we've heard from earlier this afternoon, is also something that we, sitting here, are in awe of. You as a single individual have such a tremendous ability to be dedicated to them and give them the protection they need. When those children are adults, they're going to look back on you with some very unique admiration and gratitude.

Obviously you've been in this for six years now and you must have talked to a lot of families and know other people in similar circumstances. The only circumstances I've experienced are through my own constituents for the last 20-odd years. The people here today all have the wonderful faculty of being articulate with the language

and the ability to speak and express their opinions and concerns. I always wonder about those thousands of families for whom the whole process is simply beyond them. I wonder if there's anything, through your experience, that you could recommend to us where we, as a government, could help those people for whom, to even begin the process, it's just not within their own personal abilities.

**Ms Schiarriza:** To begin the process —

**Mrs Marland:** Maybe they have been able to get a court order and maybe, through interpreters, they understand what the court order means and what they're entitled to. But after that there's no fight on their part when the court order isn't fulfilled. What do you think we can do to help those kinds of mothers or fathers?

**Ms Schiarriza:** It's hard to say. When I got my first court order in December 1990 I had gone back to work. I had stayed home with our kids for seven years and I had a job for \$6 an hour and a mortgage to pay and no money coming in and I thought: "Wow, this judge awarded me child support. Life is going to be fine." Three years later we were still receiving no child support, and another court order. You find the drive in you somewhere. People don't, but you have to keep fighting.

I was very naïve thinking, "A judge awarded this, so he's going to listen to this judge." Little do you know that they really don't care, but a lot of them don't care because they're not looking at it from the kids' aspect. In my case he's saying, "I'm not giving Debbie any money." He doesn't think about the fact that the money is going for his children. It's: "She left me. I'm not giving her any money. I don't care what the judge says." I don't know whether educational tapes or guidelines to help people through the court system, support groups and whatever else, will educate people.

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My kids have grown up with my example. Tonight they're at the house of a friend who has offered to watch them. I don't keep them out of anything. I don't bad-mouth their father, but they have never been kept out of any of the battle or the fight or the reason why they don't have \$5 for pizza day next week, or whatever, because the rent is coming due. I don't keep them away from anything, and hopefully their education now, seeing what they have gone through, is going to help them to never get into this situation in the first place, and hopefully our courts don't let them and our government doesn't let them. Even in school, maybe there has to be some kind of education for kids. We have to send them the example. They have to build on that. They have to bring their morals, through our family, through their school.

**Mrs Marland:** Thank you for that suggestion.

**Ms Schiarriza:** Thank you.

KAREN BIRNSTINGL  
TANYA CALLARI

**The Chair:** Our next presenters are Karen Birnstingl and Tanya Callari. Welcome. We're running a bit ahead and you're here early, so that works out nicely.

**Ms Karen Birnstingl:** Great. Good evening, ladies and gentlemen. Thank you for taking the time to see us today on this issue.



I'll start off by stating my situation. I'm divorced and have been for the past six years. My ex-husband is currently in arrears for approximately \$45,000. Over the past three to four years he's also been on welfare and legal aid, which is what he's been pursuing for the variance in his support that has been ordered through the courts at \$600 a month. That figure was based on his salary or his earnings at the time of our separation and divorce.

He has been working on and off for the past six years. He's been working in situations where he knows the people he's working for. They are acquaintances. I've taken it upon myself to call the necessary agencies where this has occurred and have had no response, in that he's being protected somehow, which is unfortunate because I've driven by the locations of where he's been working, so I know that he has been working.

He's had regular access for the past six years. Our court order initially was set out with no access, but I agreed to work out arrangements with him so he could spend time with his son and vice versa.

I'm just here today to say that, through Bill 82, this is going to be a great improvement for people like myself who have been going through this for several years. I think it will set a trend out there and send a message to people like my ex-husband who feel they can evade the system through the necessary steps they have been taking. He has assets that I am aware of, and I've made the necessary arrangements with various agencies and reported that. We are in the process of that with FRO right now. We're just waiting for some information back.

My dealings with previously FSP but now FRO for the past six years have improved dramatically over the past few months since the transition FRO in that they actually called me on a Thursday evening, at approximately 7:30, to assure me that they were looking into my case. Just that personal touch gave me some reassurance that there are some changes or some improvements within the FSP, now FRO, so I am reassured from that point of view.

As well with the assets he has, I feel with Bill 88 that will definitely be a tool that can be used to find and locate these assets as well as his working arrangements and other things he's doing to get by.

That's pretty well my case. Thank you.

**The Vice-Chair:** Thank you. I understand you wanted to share some of your time with Ms Callari?

**Ms Birnstingl:** Yes, we are going to split our time.

**Ms Tanya Callari:** Hi. I'm Tanya Callari. Good evening to everyone. My situation is almost the same as hers. I've been married twice and I have three children. From the first marriage I have two children. Initially he was paying \$400 a month. He had his own company, but he declared bankruptcy. We went back to court and the child support was reduced to \$1 per child. He has not paid anything for the past 10 years. He completely disappeared. I was thinking that he left town, but later on I went back to legal aid to get a lawyer and I found out he's been living here in Ontario quite comfortably, earning between \$45,000 and \$78,000 a year. He travelled all around the world. I went back to court and unfortunately the judge didn't believe me, even though I showed him all the documentation and everything, and

the child support was nullified. He had to pay neither the arrears nor the ongoing child support.

With the second marriage I had one child. Initially he was paying about \$300 a month. He was working, so it was easier to pay through the family support plan. But later on he decided to open his own company and then he stopped paying. Now he's in arrears about \$5,000 and he's planning not to pay at all because it's very hard to keep track of his income.

In my case especially, both of them being self-employed, Bill 82 will help me greatly. With the first husband, actually, he has a house as well. He went and put his house in his wife's name; that way he didn't have to pay absolutely anything.

I'm completely for Bill 82 for cases, especially like mine, where income is hidden and it's hard to prove.

**Mrs Boyd:** Thank you both for coming and telling us what you've experienced. I must say, Ms Birnstingl, you're the only person I've heard from who finds things better in the last few months with family support. Do you come from Toronto?

**Ms Birnstingl:** No, actually from Mississauga.

**Mrs Boyd:** Very interesting, because it's the very first time I've heard that. We've had floods of complaints, and so it's interesting that this has worked better for you than it did before. You were with the Whitby office before, were you?

**Ms Birnstingl:** Yes, I was.

**Mrs Boyd:** In both of your cases there certainly is some hope that Bill 82 would make a difference. There's no question that in the cases that have been most difficult to deal with, this issue of self-employment or the hidden wages, the kind of lump sum payment every once in a while and so on, has been the big blocker. There's no doubt but that the bill will help.

I am not sure that it would have made much difference in your first marriage because really your problem was that when he left employment and went on to welfare he got the order varied down to virtually nothing.

**Ms Callari:** He actually didn't go on welfare. His company was never shut down.

**Mrs Boyd:** But he did get a variation that put it down to nothing.

**Ms Callari:** Yes, he did.

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**Mrs Boyd:** It's very hard, even with a bill like this, to protect against that kind of problem. I think that in the last 10 years, though, the courts have become more sophisticated in looking at the disclosure issues, so it might be less likely that this kind of thing would happen now, but it still could, and that's kind of worrying, isn't it? There need to be some changes, it seems to me, in the Family Law Act as well to prevent some of those things from happening, and I know that the ministry's done some work on some of those issues. What you can do under the family support plan is one part of it, but what happens under the family law plan and how those orders come about, and under the Divorce Act, those things also have bearing on how applicable the orders are.

Could both of you comment on whether opting out of the family support plan or the closure of files, which are



the parts of this bill that worry us, would be things that you think are good, or do they cause you concern?

**Ms Birnstingl:** It depends on the parties involved and whether or not they're willing and have been continuously paying up until now and there have been no recurring issues. I don't think there's a problem with that. If both parties are willing to work with each other, then I think that in the long run it may let FRO work on the cases that need more concentration, the ones that are defaulting.

**Ms Callari:** Myself, I think that with my two cases, if nobody enforces, they won't pay. There's no question about it.

**Mrs Boyd:** So you'd rather see it kept in enforcement?

**Ms Callari:** Yes.

**Mrs Boyd:** I'm interested that you're calling the office the FRO.

**Ms Birnstingl:** Just from what I've seen on the letter that I received from the Legislative Assembly today, it's the Family Responsibility Office. Is that not appropriate?

**Mrs Boyd:** It is being created under the bill, but it has been the FSP office. I was just interested that you had caught on to that new jargon so quickly.

**Ms Birnstingl:** I wasn't sure if it was actually still FSP or FRO.

**Mr Tilson:** Thank you very much. As you know, if an individual declares bankruptcy, the arrears survive the bankruptcy, so that if your husband has been declared and deemed a bankrupt in the past, those arrears still remain outstanding. That's not this legislation; that's been in force for some time.

It appears that there are two types of individuals who seem to be surfacing in these hearings. One was raised by an earlier deputant who talked about her ex-husband who appeared to have resources. They were stashed away in different places, either in the name of another spouse or just stashed away. Those funds are available; it's just a matter of finding them. We believe that the legislation we're putting forward will hopefully enable the recipients to have access to most of those funds.

The other person simply says: "I don't have any assets. I don't have a car. I don't own anything. I'm just going to go on welfare." To be perfectly frank, this may have to be for another day. I don't know what percentage of the payors are in that category, but that's a genuine problem. But for those who are paying nothing and have access to resources, albeit it in the name of a third party or some other resources, we believe this legislation will deal with that.

My question to you is, with these types of new enforcement provisions, whether it be licence suspension or the potential seizure of up to 50% of a joint bank account, those sorts of things, do you believe that the actual threat, the fact of the existence of these enforcements that are available to the recipient and available to the plan, will cause payors to be a little more diligent and stop being cute and simply avoiding their responsibilities?

**Ms Callari:** I believe they would start to pay, absolutely, because with my second husband, who wasn't paying, at first he was working and he wasn't telling me where he was working. Once I found out, I reported that to the family support plan and he started paying, and there was no problem. With my second husband, when I

took him to court, he was almost negotiating to start to pay me, but for some reason the judge ruled no arrears for him, not even ongoing child support. I don't understand how that can happen when I supplied all the information. To me, if no enforcement is done, they never pay anything, so if we leave it like this, they'll never pay at all.

**Mr Tilson:** The other issue is that different groups have talked about education and how we're going to make the public more aware of the fact that these individuals have a responsibility to honour court orders or just their commitments. The comparison has been made by a couple of members in the Legislature, one of whom is even in the room at this time, with respect to the awareness of drinking and driving and how, through different pieces of legislation that have occurred over a period of time, whether it be the suspension of licences or the new legislation that the Minister of Transportation has brought forward with respect to the immediate suspension of licences for 90 days, those sorts of things are making people who drink and drive a little more aware. I guess the question that remains is that if you get tough enough in these sorts of situations, and more men are — it's slipping out, but it's generally men — being caught under these things, the public will become more aware, particularly the payors, of their responsibilities. Do you have any thoughts on that, just the general topic of education?

**Ms Birnstingl:** I totally agree with you. Like you said, some of these individuals fall into the category where they feel they're above the law in some cases and can get away with almost everything. When it comes down to it, if you're taking away things from them that really do matter the most and are things that they enjoy out of life, then it's going to make them realize that society doesn't accept it, that this doesn't fall within our societal norms. It's only through the education that it's probably going to be possible.

**Mr Ramsay:** Thank you very much for your presentation tonight. Consistently through these hearings we've heard complaints from women that most of the time it's impossible to find out where the ex-partner works. I wanted to direct a question to staff, to ask them — I thought I saw something somewhere and I can't find it now — are we working on arrangements with Revenue Canada to track down where people work through the Revenue Canada database? Is that going to be possible?

**Mr Goodman:** We currently have the authority, under the Family Orders and Agreements Enforcement Assistance Act, to obtain from the federal government information on its records about a payor's address or his employer. The federal government has introduced amendments to the legislation to open up access to certain parts of Revenue Canada data banks. Of course, we would like to see more access and more information available to us, but there is movement that should take place, hopefully at May 1, to allow some additional information.

**Mr Ramsay:** Could you highlight for us what you have access to today and what you will have after May 1?

**Mr Goodman:** We currently have access to health and welfare records.

**Mrs Marland:** Income?



**Mr Goodman:** Not to income. We have no access to any income information whatsoever. Although we have access under our provincial legislation to demand rights for financial information, that is not binding on the federal government. There would have to be amendments to the federal government legislation to allow us to obtain financial information from them.

**Mr Ramsay:** This is something we've had a bit of frustration with, that in order to really try to make some movement in this area, we would need the cooperation of the federal government. We've had some initial discussions here. I proposed that after we've completed our clause-by-clause to get this bill on its way, maybe the committee could look at some request to the federal government to try to encourage them to move more quickly on some of the areas it has the jurisdiction of, for instance, RRSPs, Revenue Canada information, things like this that might even make it easier to try to track these people down. We're going to continue to work on this.

**Ms Birnstingl:** I guess one point I'd like to make to that is that from my situation my ex hasn't filed an income tax return in 10 years. He's basically running on a cash basis. That's another obstacle, but I think there are ways and means of working around that.

**Mr Ramsay:** Yes.

**The Chair:** Thank you for your attendance here today.

Brenda Irving? Jeannette Paquette is here, but I take it we'll go to the next person and come back.

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#### MICHELLE UNGER

**The Chair:** We'll proceed to Michelle Unger. Welcome, Ms Unger. Please begin.

**Ms Michelle Unger:** I'm here today from Trenton, Ontario. Not only am I representing myself, I'm also here as a co-founder of a chapter of Parents and Children in Crisis. We've only been together for a week and a half and we already have 33 members. We believe there are some good parts of the bill, such as the licence-passport suspensions, credit reporting and access to data banks and joint accounts. However, there are many things that disturb us greatly as these things will have a great impact on our children's future.

On August 15, in an attempt to save money, 290 experienced staff were laid off and eight regional offices were closed, leaving many people who counted on regular payments for years in limbo. They had their lives turned upside down, along with other people such as myself, where the plan has never worked.

Now Bill 82 is apparently supposed to fix everything. It may help stats in their office only because the director will have the power to pick and choose orders that he may or may not decide to enforce. I would like to know how he will be able to decide what is unreasonable and impractical when this has a direct affect on our children's lives.

I can't help but wonder if this government considers my case a write-off. My ex-spouse is 41½ months and \$20,750 behind in his responsibilities to his child. My case is not difficult to enforce. No case should be. I believe it's just a lack of trying on the government's part.

I've been with the plan for 7½ years. It has never worked for me, with the exception of two default hearings, one in the fall of 1993 and one in the fall of 1994. Both times I did receive lump sum payments, but the total amount of arrears owing was never paid.

The judge at both hearings allowed my husband to continue to hide behind the corporate veil, and to add insult to injury, he proceeded to tell my ex-spouse that if he wanted to have the amount of arrears abolished or reduced, he could take our case to another court. All this accomplished was it was giving him permission to neglect his financial obligations to his son, because when the amount gets high enough, it can just simply be erased. Isn't this a great system?

Now I learn with Bill 82, I will never have a chance to collect on my son's behalf the moneys that are rightfully his through his father's estate.

Opting out of the plan should not be an option. Does anyone actually believe that support payors will pay directly when no one is overseeing the court order? Is that not why changes were made back in 1992?

User fees are ridiculous. Some of the reasons why people would be charged a fee is to rejoin the plan after opting out because the office had failed to take action or because their former spouse has had a good history in the past but has now fallen in arrears on purpose because they discovered there was no system in place to enforce the court order. Where are these people to come up with the money?

This bill should not pass without revision, and when you vote, please remember our children's future is at stake.

**The Chair:** Thank you, Ms Unger. You didn't mention, is your husband self-employed?

**Ms Unger:** Yes, he is. His company's incorporated.

**Mr Tilson:** Thank you for coming and providing us with your comments. I'd like you to comment on whether you think the enforcement provisions are suitable to your particular case. In other words, you've indicated that the program to date hasn't worked, and it clearly hasn't worked for — well, one of the things they're doing is expanding the definition of "income source" so that commissions, lump sum payments, vacation pay, those sorts of things, you could have access to them. The driver's licences, which you have referred to —

**Ms Unger:** I don't feel it will help in my case. It may help some people, but it won't help in my case.

**Mr Tilson:** Why won't it? You mean none of the enforcement provisions that are being put forward in the bill will help in your particular case?

**Ms Unger:** I believe not.

**Mr Tilson:** Why is that?

**Ms Unger:** His brother had lost his licence due to drunk driving. He thought it was just hilarious that he drove for a year all over the place and never got caught.

**Mr Tilson:** Does he own anything? Does your husband own anything?

**Ms Unger:** He lives at home with his parents. He employs all of his relatives and his neighbours and the neighbour's dog to work for him, and he keeps claiming he has no money. But I've taken business courses and I know it's not hard to hide money. His business has been



there for five years now and he has three offices. He bragged this past summer to me that he got a \$3-million contract.

**Mr Tilson:** One of the provisions, as you may or may not be aware, is the ability to seize assets that are being held by third parties.

**Ms Unger:** Yes, that part we do agree with. That may help me, but I'm just wondering, how long is this going to take?

**Mr Tilson:** Clearly, you're like one of the early deputants who talked about how the payors across this province — not all; we don't want to describe them all as like that, but a number of payors — are literally laughing at the whole process, that if you're working for an employer with a regular amount of payment, you simply can't have access to other funds. The self-employed person, for example, the person who through various devious methods of having resources, whether it be a car or whether it be a condo or whether it be a building or simply funds being held in trust or just being held by other people, this plan will provide the tools to the plan to seize those assets.

**Ms Unger:** I have written the family support plan in the past to advise them of RRSP and bank accounts that he does have in his name. When I had finally gotten through on the phone to confirm they had this information, I was told they could not confirm that information. I wasn't asking for the information; I already knew it. I just wanted to confirm they had it, and they couldn't even give me those details.

**Mr Tilson:** The difficulty is up until this bill —

**Ms Unger:** I have a writ of seizure and sale and nothing has ever been seized.

**Mr Tilson:** The point I'm trying to make is that up until the introduction of this bill, the plan did not have the enforcement tools to do those things, particularly with the items that I've referred to. I guess I'm asking whether or not you feel we'll be able to get to those assets in your particular case.

**Ms Unger:** I would like to believe that possibly that would work.

**Mr Tilson:** I would too.

**Mrs Marland:** I just very quickly wanted to say something to you about this driving under suspension, because it was my private member's bill that dealt with that aspect in terms of drunk driving.

I think if you and some of the other mothers are as tenacious as the mother who spoke to us earlier this evening, who followed the furniture truck on the highway, if you knew your husband's licence had been suspended for being in default of the decision of the court in terms of the family support payments, all you would have to do is phone the police and give them the licence plate of the car that he drives all the time. Then it wouldn't be a matter of waiting till the police accidentally found he was driving without a licence; they would have a notice out on that plate, on that vehicle, and it wouldn't be very long before he was found to be driving without his licence. I think that is going to be an effective deterrent tool, so don't give up on the fact that somebody else you knew who was a drunk driver drove for a year under suspension and wasn't caught.

**Ms Unger:** I'll never give up on this case, never.

**Mrs Marland:** No, but don't. That tool in this bill I think is going to be a very useful tool. If you're talking to people, if we have Operation Lookout, it just takes a phone call to the police, and you don't have to identify yourself.

**Mr Ramsay:** Michelle, thank you very much for coming out and sharing with us your particular circumstances. All these cases seem to be slightly different, and of course we're trying to develop some legislation here that would try to be effective in the vast majority of cases. I'm interested about your husband's business when you say he employs all the neighbours, and even the neighbour's dog you said. Is the problem of getting the assets of this business that it's an underground type of business and it's a cash only, because it's run out of a house? Is that the problem?

**Ms Unger:** Oh, no, it's not run out of a house. It's an actual legal business. When we have gone to court before over arrears, and they have said, "Where's your financial statement?" he'll have a bunch of numbers scribbled on a piece of paper. Anyone can falsify a financial statement. It's not hard to do. He just keeps saying he has no money, he has no money, but after five years his business is growing, it's expanding. He has a nice car and goes on vacations and lives at home with his parents. That's sort of his way of saying to me: "You see, I have no money. I have to live with my parents."

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**Mr Ramsay:** He's operating his business maybe in a way that he reinvests in his business so there's no cash to make a grab, and maybe he can always show he's running at a loss because everything's going out in payroll. But he must show that he's getting some sort of payroll from the business.

**Ms Unger:** Apparently no. He's never drawn a paycheque in five years.

**Ms Martel:** Thank you very much, Michelle, for driving here this evening. You've come a long way to participate in the committee and the members appreciate that you took the time to do that.

We've said in the Legislature and we've said to a number of people who have been here today that we support the enforcement mechanisms that are outlined in the bill. Our concern comes from, frankly, a number of the issues you've raised: (1) opting out; (2) user fees; (3) the ability of the director to close a file and have that discretion; and finally, privatization of the whole plan, which we haven't talked very much about tonight.

The Attorney General left us with the impression yesterday that he was open to changes in some of those areas. I wonder if we can just work back through some of those areas and you can explain a little more to committee members about either your concern or perhaps a concern of some of the members who are part of this group with respect to those issues.

First, if I can talk to you about the opting out, in your case you've never gotten money, but there are other people in your group, as I recall from being there on Friday, who, were it not for the plan, would never see any money and are terribly worried about the opting-out provision and the fact that there are very few, if any,



mechanisms to stop coercion at the end of the day. I'm wondering if you can either speak for yourself again or some of the other folks in the group about that issue.

**Ms Unger:** Right now, a lot of people are scared with the restructuring that's going on. A lot of their spouses, being male or female, have said, "I'll pay you directly and we won't even have to worry about this." A lot of them are for that, only because they're in a bind right now and they need the money, they want the money. But I feel if they opt out, they're going to have a hard time getting back in. Cases are going to be lost. If there are user fees attached to this, they're not going to be able to afford them because they're going to be in arrears to start with.

I was told one time when I did call that if I wanted to get out of the plan, I could. When I contacted a lawyer and wanted to take the arrears to court on my own, he wanted a \$10,000 retainer fee, which obviously I didn't have, so I'm still with the plan. I personally would never opt out, because it's the last glimmer of hope I have left that the plan will work for me.

**Ms Martel:** You talked about user fees. The Attorney General said yesterday he didn't believe that if you opted out and then came back in for the first time, there would be a fee for that, but if you were repeatedly moving in and out of the plan, there would be a charge. Setting that aside, there are some other areas in the bill that are not quite clearly identified yet but there are indications that user fees will be charged for administrative items. I'm assuming that's for photocopying of documents etc. I wonder if you can comment on the fact that clients of the plan will be charged any kind of fee, period, when the money we're talking about is court-ordered payments.

**Ms Unger:** It's taking money away from our children. If there's any type of user fee, that's taking money away from the children. It's taking food off their plates, basically. Myself, I have my file right here. I probably have four pieces of information that the family support plan has ever sent me after all my phone calls and letter writing. I just don't get a response.

I feel it's going to hurt the children if there are user fees there in place. If anyone should pay them, it should be the support payer, not the recipient.

**Ms Martel:** Finally, just let me ask you a question about the discretion of the director, because one of the concerns we raised repeatedly during the debate was our concern with the director having some discretion, some authority to close a file. We strongly believe there are cases where if someone comes back to the province after an extended period of time, finally enforcement action can be taken. New information comes: He goes to work when he's been on assistance, and actually goes to work. Those things should always lead to a reactivating of the file. But we are concerned about some of the criteria that the government has in the bill which I hope will be changed which say, for example, that a director can close a file if the amount of the support is nominal; if the meaning of the order is unclear; if arrears are of long standing that are owed under the order.

In your case, you're looking at \$20,000 of arrears, if I recall correctly. I'm just wondering where you might

stand in the eyes of the director if we move forward with section 7 and with some of the criteria that are here.

**Ms Unger:** That's what I'm scared about, because it's 41½ months, \$20,750. I'm scared that I'll wake up some time in January after the bill passes and I'll have nothing.

**Ms Martel:** So in your view, we'd be best either to delete this section or look at very specific cases where there might not be action taken. That has yet to be defined by the committee, but the director should not have that kind of discretion; the file should be always —

**Ms Unger:** The file should always be there. Everyone should always have some type of protection on their cases, regardless of whether someone moves out of province and moves back in or it's a long-standing amount, because no one can predict the future, no one knows what's going to happen with these cases down the road. Someone might be on welfare so a case is put on hold, but they could buy a 649 ticket and be \$10 million richer and have the money for their arrears. So no cases should ever be thrown out or put on hold.

**The Chair:** Ms Unger, thank you again for your presentation.

**Mr Klees:** Mr Chairman, if I might for clarification purposes, this last witness raised a very important question that I'm sure is on the minds of the public, and that is that she has \$20,000 in arrears. Her concern is that this bill, if passed, would potentially mean that she loses any claim to that \$20,000. I'd like the parliamentary assistant to clarify for the record whether that's the case.

**Mr Tilson:** Mr Klees, the order is continuous. The order never stops. The arrears continue. This bill isn't going to stop the clock ticking with the order. The order will continue. We're not writing anything off. There was a comment I made to one of the opposition members and I repeat it: Even if we wanted to, which we don't, if the amount of money is pursuant to a court order, the only person who could change that is the court, not the government. That amount remains.

**Mr Klees:** I felt it was important for that to be clarified.

**Mr Ramsay:** Michelle, I'm going to move an amendment on Monday to delete that part of the bill, okay?

**Ms Unger:** Please.

JEANNETTE PAQUETTE

BRENDA IRVING

**The Chair:** We have the next presenters, Jeannette Paquette and Brenda Irving. Welcome. You both have 20 minutes in total, including all questions. Please proceed.

**Ms Jeannette Paquette:** Thank you for this opportunity to be here today. I'm a single mother of three wonderful little girls. I live in Nepean, Ontario, and I commenced working with the plan in January 1996.

I receive \$2,000 a month for support, and payments were coming in on a regular basis until October, at which time they all ceased. I began calling the 1-800 number that was provided to me, but due to its unavailability, I decided to write the plan itself.

After no response, I also contacted Charles Harnick's office and Mike Harris's office. With no response from Harnick's office and not much help from Harris's office,



I decided to go to the media and I organized a support group to address the challenges families are facing obtaining support payments from the family support office.

About 40 women and men came to the first meeting. I would like also to present — I don't know if I can give them to someone — information sheets from those people who were at the meeting and who all have pretty much the same situation as myself. Some vary a bit, but many are just not receiving moneys at this time when they know that their payors are being garnished at source.

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Mr John Baird, Conservative MPP for Nepean riding, attended this meeting. That day he admitted to a reporter the frustration of the unavailability to talk with anyone at the 1-800 number. To paraphrase, he said he was shocked with the horror stories that were presented that day and concluded that, yes, much help is needed, which brings me to Bill 82.

I have read Bill 82 to try to educate myself with what's going on, and I've been listening to and reading some of the debates. I believe that the closure of the family support plan's regional offices and the firing of 290 staff has caused hardship and suffering. Moneys that had been deducted by employers and sent to the FSP were sitting in a bank account perhaps or in a box at the FSP. They have not been capable of distributing it to the women and children who need it.

I personally have been affected by this. I have had the gas company threaten to cancel my service. I have had to pay NSF charges and overdraft interest charges. My credit rating has suffered. I have had to go to my minister and borrow money. No one should be subjected to these humiliating experiences when they were completely unavoidable.

I ask you why you would shut down eight regional offices simultaneously. If this was any other business operation, I believe they would have closed down one office at a time until the central office was up and operating at its full capacity. It's very clear to many people that it is not.

I am very concerned as well about the issue of allowing the director to refuse to enforce orders and giving the director the authority to close files. I'm concerned that this bill contains clauses that would provide for privatization and the implementation of user fees as well and that companies would be making money from women and children who are merely trying to collect moneys that are theirs in the first place. I find that very unacceptable.

I don't want to leave here today, though, conveying only negative thoughts about this bill. I've looked at the enforcement clauses and there are a few: reporting defaulting payors to credit bureaus, closing the loopholes that allow support payors to shelter funds in joint bank accounts with other parties and taking away the driver's licences of defaulting payors.

I do have a small problem. It was a different perspective that was forwarded to me the other day from a paying father, actually, who said: "I am paying the family support plan right now, but because my moneys are lost somewhere in the system, I am showing that I am in arrears. That would mean that my driver's licence would

be taken away. That is very unfair." This would also hinder his relationship with his children and deny him access with his children, so ultimately again the children would be the ones suffering. I think that's very controversial. I had never really thought about it in that way before.

I don't feel that this bill should be passed the way it is written. I think that amendments need to be made to some of these issues that I've outlined.

On a final note, I just want to read a quick story from a woman who came to the first support meeting, and this was submitted today in the Ottawa Citizen newspaper. This is by Mrs Carol Moran it says:

"Dearest Virginia,

"Yes, Virginia, there is a Santa, but unfortunately he will only be visiting the family support plan government ministers and their families this year. You see, Virginia, the family support plan was created to prevent the misappropriation of funds owed to the guardian parent due to the breakdown of the family unit. However, again, poor planning and a person known as the Attorney General has decided to close down offices and lay off people to save money and use the Ontario support payments' interest of \$1 billion to perhaps pay for Santa's elves and their families to travel the world in the name of the Canadian government, or maybe Santa will require a larger pension when he finishes his job this year, or maybe he would like to pay off lawsuits to Santa's previous helpers.

"No, dear Virginia, Santa will not visit our home this year because he will be extremely busy visiting Mr Harnick and Mr Harris, who have invited him to join their large family gatherings for turkey dinner with all the fixings, open their brightly coloured gifts under the magnificently designer-decorated trees, and of course, dearest Virginia, Santa will be having a wonderful time playing in the snow with children who have cosy, warm snowsuits and boots.

"You see, Virginia, Santa is so busy changing the system in his department that he can only apologize for the confusion. He hopes to fix the problem before Christmas. However, we're not sure as to what year. Oh no, Virginia, social services cannot help us because we are supposedly the recipients of regular monthly family support payments.

"Yes, sweet Virginia, Santa will visit us again, not only in our dreams but when the government realizes that they money that they are withholding is not a handout of moneys but moneys paid by daddy to help his little children.

"Good night, sweet child, and pleasant dreams."

That's all I have to say. Thanks.

**The Chair:** Ms Irving, do you wish to add something to the presentation before we request questions?

**Ms Brenda Irving:** I have a few things to ask. I've been on my own for 12 years with my son. I've been fighting with the Attorney General's office since it opened. Last year I went down on December 4 and I asked them, "How many people do you have working in your office here in Ottawa?" They said 60. I said, "How many law enforcement officers do you have?" They said six. I said, "How many files does each individual law



enforcement officer have?" They said anywhere from 1,200 to 1,400 files. Why did they have to close the office here in Ottawa?

I had to call my MPP, Richard Patten. Do you know that his secretary sent emergency faxes, and nothing was returned for two and three and sometimes four days. I do not feel that this is fair to any individual. Our children are our future.

My son has attention deficit disorder. He needs medication monthly. My salary has been turned back 25%. I am not making the big dollars. I'm making \$13.17 an hour. A mother on mother's allowance or welfare would get her cheque monthly, but when you're working it's unfortunate that you go in between those cracks. You go in between those cracks not only when you're working but also when you're a child struggling through school.

I just want to thank everyone for listening to me, and I hope that something will come out of this this week.

**The Chair:** Thank you very much, Ms Irving. We have about three minutes per caucus, and we'll start off with Ms Martel.

**Ms Martel:** I thank both of you for coming from Ottawa today to make this presentation to the committee. I know you did that on short notice when we could guarantee that you would be helped in order to do that yesterday, so we appreciate that you took the time to come and make a presentation.

Let me go back to the areas of concern that we have and ask you, if you choose to do so, to just reinforce some of what you said. We continue to be very concerned about the section of the bill which will allow the director to have the discretion to shut down files. We're particularly concerned because any number of the criteria which are listed in the bill, and they are quite extensive, are criteria that we believe would end up shutting down any number of files.

The Attorney General has already said in the House that he believes that between \$450 million and \$500 million of arrears are uncollectible, and our concern is that if you apply the criteria that are in the bill, all of those women and families who are depending on that are not going to receive that money. Do you think the director should have that kind of discretion to close files based on criteria that are ambiguous as the support is nominal or the court order is ambiguous?

**Ms Irving:** But you have cheques lying there, waiting. They're lost. Before you get any money you have to wait three months three quarters of the time. So you're getting interest on that money. Where is that interest going? It's not going towards our kids.

**Ms Martel:** You don't have to tell me about the family support plan office. I saw it. I saw Downsview. I know what the problem is and know the problems that have been caused by the shutdown.

My concern with respect to the bill is that in section 7 there's a large amount of discretion left to the director to close any number of files. Do you think a director should have that kind of discretion?

**Ms Irving:** No. I don't think he should have the right.  
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**Ms Paquette:** I don't think under any circumstance a file should be closed. Again, I think we've heard people

talking about keeping them suspended, and I think that's a good idea. We've heard about incarceration, you know, people winning lotteries. There are many different examples that were presented here today that could reopen a file, if that's what we want to call it. I don't think anyone should have that sort of authority to deem something closed forever and put it aside. It's a court order. Again, I just don't see how the government — in fact it cannot dismiss a court order. I have to say no, under no circumstances do I see that being acceptable.

**Ms Martel:** Do you think that user fees should be applied under any circumstance, whether or not there's opting in and opting out of the plan or for you or the payor or other people to have the ability to get documents photocopied? Should we be asking people to pay a user fee for documents that are in essence theirs?

**Ms Paquette:** No, I don't believe we should, especially when user fees — again, that's very ambiguous in the bill. There's no statement as to what these user fees will be, whether it will be \$25 a month, \$50 a month, how much we're going to be charged for these things. No, under no circumstances, again, should I conclude that anyone in the private sector should be making money from us when these moneys are entitled to us, we have court orders.

**Ms Martel:** That would be one of the things that we would be worried about, because certainly if you look at the business plan that we reviewed, it very clearly shows that there will be a move to privatize the whole plan two or three years down the road. I think that's generally where the government is heading. I too am very concerned that the private sector will be able to charge fees to people whose money it is, whose court-ordered support payments it is.

One final thing with respect to opting out. We've had a variety of views here this evening from folks who have had no problem with their ex, who would be quite comfortable in leaving the plan and keeping up their arrangements outside of the plan, and others who are very concerned about that. I wonder if you have a sense, for yourself, because it has never worked — but do you think people should have the opportunity to opt out or should we leave it the way it currently is, which is that everyone has to be registered inside the plan?

**Ms Paquette:** I believe that you should automatically be put into the family support plan, but I also believe that there should be an option. I believe the percentages are very low, maybe 1% or 2%, of the people who are actually in the plan who have a working, healthy relationship with their ex partner, and perhaps for them that can work.

Personally for myself, I must say I would like to opt out of the plan. I do have a relationship with my ex partner that is amicable. There is a trust there. He does have the children's best interests at heart. Even though I'm not receiving moneys — well, I am now, but even though I was not receiving my moneys on a regular basis, even though he was being garnished, he was helping out in other ways.

But I think I speak for only 1% or 2% of the people who might be in the family support program. I don't think opting out is as large an issue as it's being pres-



ented as today. I think it's a very small percentage of people who would in fact like to leave the program.

**Mrs Marland:** Ms Irving, you said that you have been having — I think your words were, "I've been fighting the Attorney General for 12 years."

**Ms Irving:** No. What I'm saying is, basically since the Attorney General's office opened, "We don't know where he is, we don't know this, we don't know that." I do all the legwork for them, and I'm still not getting the money. Then I have to call and call. I got to the point where I had to call Richard Patten's office.

**Mr Patten:** Imagine that.

**Mr Guzzo:** If you lived in Ottawa West, it would have been solved.

**Mrs Marland:** Am I correct that you said you'd been fighting for 12 years?

**Ms Irving:** First of all, when I started — I don't think the Attorney General's office has been around for 12 years, right?

**Interjection:** It's been around going on for a hundred years.

**Ms Irving:** When I first started, I had to go to —

**Mrs Boyd:** She means the family support office.

**Mrs Marland:** You've had difficulty for 12 years.

**Ms Irving:** Right from the beginning.

**Mrs Marland:** For 12 years?

**Ms Irving:** Yes.

**Mr Tilson:** You mean the family support plan, that's what you mean.

**Ms Irving:** That's right.

**Mr Tilson:** Okay, not the Attorney General's office.

**Ms Irving:** Pardon me?

**Mr Tilson:** I'm just trying to determine who you're talking about.

**Ms Irving:** I'm sorry, I do apologize.

**Mrs Marland:** It's that mindless bureaucracy of government that you've had to deal with for 12 years, I suggest.

**Ms Irving:** The first courthouse I worked with, off Bronson Avenue across from Carleton University, I went after \$5,000 then on my own. Then he goes back to the court and he cries, you know?

**Mrs Marland:** The point I'm leading to is, could you tell us what the problems are that have been the same for 12 years that we can now address with this bill as it is or with this bill with some changes, because the process of public hearings is to make changes and improvements, if we can, as a result of listening to you.

**Ms Irving:** Your investigators are not doing their job. I have to call the Attorney General's office. I do the legwork for them when they're being paid to do the investigation.

**Mrs Marland:** They're not doing the job in what way?

**Ms Irving:** They're not doing the legwork properly, finding out where he's working, this, this, this and that. I don't even get a GST cheque and I should be, for years now. It must be over three years. Why? Why is it not on the computer?

**Mrs Marland:** Is there anything else in your 12 years' experience that you —

**Ms Irving:** Yes. Last year — I don't understand — with the family support, I should have received his

income tax. No. I went down there, and I've told them: "This is where he's working. Can you not put a halt on the computer? Please do something." Nothing done.

**Mrs Marland:** So you've had a problem for —

**Ms Irving:** From the beginning. He's been manipulating the courts and getting away with it, and getting away with it with you people also. You people are letting him do it.

**Mrs Marland:** So every system that you've worked under for the last 12 years hasn't brought the solution, hasn't helped you in terms of accessing what you were given in a court order.

**Ms Irving:** That's right. It's pretty bad too —

**Mrs Marland:** It's very bad.

**Ms Irving:** — when the Attorney General's office — poor Nicole, who works for Richard Patten. You know, that's pretty strange.

**Mr Guzzo:** We have a lot of sympathy for you. Do you mind telling us what type of work the father of the boy does?

**Ms Irving:** He used to work at Sears paint and wallpaper. He was a district manager for Toronto East. Then he quit that because he was making too much money. He went to a manager's job. From there, he quit that and he went to Mac's milk. From there, he quit that and did nothing. He's at Sears right now. Oh, he was in sales, excuse me. But now I think he's cleaning rugs.

Last week, for the first time in 12 years I bumped into that man at Bayshore, and he says, "Hi, Trish, I'd like you to meet Brenda," not saying: "How's Blake? What is he doing? Has he been sick? Is he attention deficit disordered? How much does it cost for the medication per month? Is he happy?" The child asks: "What does my dad look like? Does he love me, Mommy?" I've had to take him out to the Royal Ottawa for crying, wanting to bang things. It has not been easy. I'm not trying to cry the blues here. I want people to understand and look out for other children of the future, not just my son but everyone. Children are beautiful, and they need the help.

**Mr Patten:** I thank both of you for coming to join us. Ms Paquette, I read that you've had a tough time all the way through, regardless of the structure. I read that you were talking about all of a sudden having to call the 800 number and try to get through. Have you found a difference with the centralization of the 1-800 number?

**Ms Paquette:** Yes, definitely. There were difficulties sometimes getting through to the regional office in Ottawa, but it certainly didn't take me three or four days, and certainly when I did get in touch with someone, they seemed to be at least knowledgeable and have some expertise as to the information of my file and updating my file and were able to make sure the cheques were distributed within a reasonable amount of time.

**2030**

I have tried many times to contact the 1-800 number, and there are now presently eight of them. So for a hobby one day — nothing else to do — I just put on a redial and left it on my phone, which is an option; as soon as the line is available, my phone will ring. That took about six hours, which was ridiculous. Getting through has been absolutely impossible.



I've been working with John Baird, who had promised at this meeting to support us in any way he could and to look at individual cases, but he has broken that promise as well. I shouldn't really say he's broken — well, no, I feel that he's broken that promise. I think he's tried but he's very frustrated as well, and he admits the frustration of not being able to get through. In fact, his office had a very urgent and very unique case that I presented to them almost two weeks ago. They were faxing, as I've heard you've done as well, "Urgent" on the top of their case information sheet, not to hear anything in two weeks from anyone at the office.

There are definite problems with the office and the way it's operating right now. It's not operating. I don't care what anyone here says, it is not functioning. It's not functioning the way it should be. We were given a promise, and we trusted. We have trusted this government with our moneys, and as far as I'm concerned it's in breach of contract. Our moneys are not being distributed the way they should be.

**Mr Bernard Grandmaître (Ottawa East):** I don't think you should be blaming Mr Baird, because the Attorney General keeps telling us in the House, "Bring us your individual cases." I know every member who sits around this table, on this side of the House, has brought special cases to the Attorney General. I find it very difficult to believe that the Attorney General wouldn't even listen to one of his own colleagues. Did you say that Mr Baird has simply given up?

**Ms Paquette:** I don't believe that he has given up. I think, as you have stated — and perhaps that was a little harsh. I'm frustrated, he's frustrated, and I think he's limited, just like everyone else. But I am really appalled to think that as MPPs you're not getting a response whatsoever. It's very difficult for us, but as members of Parliament I would expect that you would have some sort of contact with the Attorney General and that he would take accountability and responsibility for what's going on. I feel very angry right now, as you can see, I'm feeling the adrenaline pumping right now, because I cannot believe the way things are running right now. It's just appalling to me.

**Mr Grandmaître:** Well, we feel the same way you do. We're trying to get this bill amended so that it would relieve your pain, but at the same time we feel frustrated for the simple reason that we're not getting the answers in the House and we're getting no action whenever we phone the family support plan people. It's very frustrating. I'm glad that you made the trip from Ottawa and told us exactly how you feel about this plan.

**Ms Paquette:** One of the other things I ended up doing was speaking with a regional councillor, because I felt, again, that I wasn't getting any response whatsoever. I went to David Pratt, who is Ottawa South's regional councillor, and he put forward a motion to the government telling them of the crisis that we're in. I just think, again, it's appalling that we have to go through these measures to get any kind of a response, and still I really don't feel that had any input or bearing. I think it's moral support.

**The Chair:** Our time has elapsed. Ms Irving and Ms Paquette, thank you very much for attending here today.

## KIDS NEED BOTH PARENTS

**The Chair:** Our next and last presentation will be by Kids Need Both Parents, Bill Flores, president. Is Mr Flores present? Welcome, sir.

**Mrs Marland:** Mr Chair, just before Mr Flores starts, I think it's important to advise him — I'll wait until he sits down.

**The Chair:** Please proceed, Mrs Marland, because we stop at 9 o'clock sharp, and we're eating into Mr Flores's time.

**Mrs Marland:** For the record, I'm looking at a press release which was issued under yesterday's date which was faxed to my office today, and on this press release it mentions that there will be a demonstration on the front steps of Queen's Park tomorrow by the group that Mr Flores represents. In this press release, it also says that this committee has not allowed them to participate in the public hearings process, and yet he is here, booked tonight. This fax, this press release, was sent to me at 2:19 this afternoon. I understand that he was booked this morning to appear before the committee. The other thing that's important, Mr Chair, is that —

**The Chair:** What's important, Mrs Marland, is that we are now using Mr Flores's time.

**Mrs Marland:** No.

**The Chair:** We're going to stop at 9 o'clock.

**Mrs Marland:** No, I'm sorry, I'm going to raise this on a point of order if you don't let me finish it.

**The Chair:** I've heard your point of order.

**Mrs Marland:** No, I didn't raise it on a point of order to start with, but I will if you won't let me continue. In this press release, Mr Flores is referring to Doug Arnott as a government representative who rejected their application. I think it's very important for any organization or any individual to understand that Doug Arnott does not work for the government, he's not representing the government. He is an employee of the Legislative Assembly and, in his capacity as clerk, he is only representing this committee and at its direction. It's my understanding that this committee did not direct that any group or groups would be excluded from these public hearings. Maybe you would like to confirm that, Mr Chair.

**The Chair:** Mrs Marland, at all times the clerk of this committee acted under my instructions. Presentations were chosen on a first-come, first-served basis after using three submission lists from each of the parties equally. It just so happens we had a cancellation. Mr Flores was next on the list and therefore became a presenter, and that's how that occurred.

**Mrs Marland:** Thank you for confirming that.

**The Chair:** That information in the press release is incorrect. In any event, Mr Flores, welcome. I'd ask you to proceed, please.

**Mr Bill Flores:** Good evening. Thank you for the opportunity to speak. I resent that a government that supports preferred-gender policies does not take care to ensure that there would be an equal representation of genders on an issue that affects both genders.

**The Chair:** We don't work under the quota system on this committee, Mr Flores.

**Mr Flores:** Well, maybe in other areas. I would like to proceed with this. I think that matter is behind us.



We are here to speak on behalf of those men, fathers, grandparents and children's rights organizations which were not included or could not afford to be represented in these public hearings. Some of these groups were able to send a representative here to endorse, with their presence, our views; others have been left out, unable to attend, even to know about this event.

I would like to mention the names of a few organizations that are close to us and who are not here: Kids Need Both Parents, Hamilton; Freedom for Kids; Ontario Men's Directorate; Fathers for Justice, Kitchener and associated branches; Toronto Fathers' Resources; In Search of Justice; Human Equality Action and Resource Team, eastern alliance; Fathers Are Capable Too; National Alliance for the Advancement of Non-custodial Parents; Fathercraft and so on.

**2040**

Given the fact that the government provides millions of dollars to women's organizations to advance their interests, which has put men, fathers and children's rights organizations at a disadvantage to provide input to these hearings, we'd like to denounce the consultation as undemocratic and unfair. While feminist organizations are given the financial resources to look after the interests of women and inform and orchestrate their appearance at these and other important events, men are left to rely solely on the press. As is the case on this particular occasion, it was by mere chance that one member of one of these groups present spotted, in between an article published November 30, the opportunity we have now to voice our opinion in this matter.

Women's organizations are given resources to conduct research and to look for statistics which are favourable to them. As some experts in the area both from across the country and abroad have testified, the statistical data presented by women's organizations have been proven to have been deceitfully created or presented to advance their own interests. Based on this one-sided false information and participation, Bill 82 has advanced to its present standing. To try to disprove or argue the contents of Bill 82 in 20 minutes is not humanly possible. Most likely it will take a few days and expert witnesses.

We oppose the passage of Bill 82 and we have some statistical data to prove that its implementation at this time and at its present stage will not be in the best interests of children; rather that it could be highly detrimental to them.

We believe in the obligation of non-custodial parents to provide support for their children. We also believe that most parents, and very particularly fathers, were, are and would like to continue providing for their children after separation or divorce. We concede that there are a few parents who are neglectful of their financial obligations towards their children prior to or after separation, and that for those cases there should be in place a system to ensure continued financial support. However, we believe there are better ways to achieve the same result without creating the animosity that this bill is bound to create between the separated parents and which in the end will be to the direct detriment of children.

In addition, we believe the number of non-custodial parents who could be affected could be greatly reduced,

and hence the least possible number of children will be affected by the acrimonious feelings arising out of the passage of this bill in its present or any future form.

We understand that these proceedings are not about access or custody. However, we believe that in the best interests of children, real implementation of access orders, the dismantling of the adversarial system of justice and its replacement by mediation, with litigation only as a last resort, and the end of the gender bias and harassment against men permeating our justice system and society will be an easy way to achieve this objective.

We have the statistical and empirical data to support our claim. This information has been gathered from the painful experience suffered at some point by our United States of America neighbours, with whom traditionally we have shared the closest socioeconomic similarities. In the United States, for example, child support compliance is 90.2% in cases of shared parenting, 71.1% in cases where access was truly protected by a court order, and 44.5% in cases without shared parenting and court order.

We perceive this bill as following the confrontational policies of the present judicial system, not healing through understanding and compassion. In this atmosphere of preferred gender policies and hatred towards fathers, we cannot envision the success of the goals this bill is meant to achieve.

The double standards supported by the government are eroding the moral fibre of our society, the family unit, and are corrupting our democratic system. Behind many abused non-custodial parents there is a mother, a grandmother, a sister or children who will not forgive you.

Therefore, ladies and gentlemen, we are exhorting you to behave responsibly for the sake of our children and all the values that our society stands for by rejecting or withholding the arguing of the details of this bill until, and only until, an atmosphere of social reconciliation is achieved and a democratic system is in place. Failure to do so will leave us with no other choice but to reject this bill in its entirety and denounce it as a sham which benefits only those living off of the divorce and women-as-victims-of-men industry.

One final word from myself before I pass the microphone to another of our members: Please do not play politics with the souls of our children. Thank you.

**The Chair:** Thank you very much, Mr Flores. If you'd remain, members may have some questions. Does the Conservative caucus have any questions of Mr Flores's presentation?

**Mr Tilson:** Thank you, Mr Flores. We have no questions.

**Mr Boyd:** Excuse me, Mr Chair. I believe Mr Flores said that somebody else was going to join him there.

**The Chair:** Do you wish someone else to join you?

**Mr Flores:** Yes.

REINHOLD KNAUSS

**The Chair:** Welcome, sir. If you take part in the conversation, just identify yourself before you speak.

**Mr Reinhold Knauss:** My name is Reinhold Knauss. I come from the Ontario Men's Directorate. What I would like to tell you is that fathers show their love by



working long hours to provide for their children. On separation, those sacrifices are turned against them by things like the usage of the words "primary caregiver," a term that excludes working fathers, realizing that mothers can withhold access at any time, without any penalties, in violation of the court orders, yet the courts do nothing about it. Fathers are often torn between excessive child support and excessive legal fees. Fathers are presumed to have money but no feelings.

After a close relationship with their father, children find the restricted access to their father incomprehensible and cannot deal with the intense pain of loss and rejection. Children without fathers suffer the rest of their lives, many becoming a permanent burden on the justice and the welfare systems. Problems caused by father loss are teenage pregnancy, drug abuse, poor school performance, low self-esteem, depression and suicide. Studies in the US — sorry, no studies in Canada are available — show that from fatherless homes come 63% of suicides, 85% of children with behavioural disorders, 80% of rapists, 71% of high school dropouts, 85% of all youths sitting in prison.

Spending millions to force fathers to pay for children they are not even allowed to see helped increased arrears from 75% of support orders nine years ago to 78% of support orders today. This approach has not worked in the past and it will not work in the future.

Child support awards to mothers, often seen as hidden alimony, are based on a father's past performance, not on current realities, which might include strikes, sickness, job loss, wage reduction, a new family, business failure, incarceration or death. Child support guidelines do not address a woman's responsibility to support her children or a man's expenses when the children are with him. There are too many cases we're aware of where children live permanently with dad while he is forced to continue paying child support to mom. Mothers are not accountable for child support, often spending it on vacations or boyfriends, leaving children in poverty. Child support guidelines don't take into account the custodial parent's income, the age of the children, or the geographical location of the parties involved.

Every year, roughly one in five support payors loses his job and is unemployed for some time. To expect unemployed men to pay \$4,000 or more to have their support orders adjusted so as not to show up as deadbeats with the family support plan is unrealistic. They don't have any money. There is no simple procedure in the family responsibility act to allow for speedy and low-cost adjustments. Support should not be based on the potential of the payor but on the actual fluctuating income.

Support is enforced by government agencies; access is deemed a civil matter and ignored, requiring fathers to spend money that should go to their children on useless court appearances. The Attorney General himself is aware that access orders are not enforced in Ontario and cannot be enforced. The experience of the state of Illinois, where access orders are enforced by police and non-compliance causes fines or jail, shows that fathers who see their children support their children. Contrary to the legal myth of separate issues, rights and responsibilities are not separate issues but are two sides of the same coin.

To ensure support for our children, and in the interests of gender equality, we recommend parental equity, meaning time-shared physical and legal custody in equal, alternating custodial terms. Financial support responsibility depending on ability should be the presumption of the law.

Parental equity is as important as pay equity. We can no longer apply political correctness, gender equality and human rights to one gender only and treat fathers as subhumans and wallets. Instead of coming up with more new names and regulations for mom's collection agency, which is what we are talking about here — formerly known as custody and support enforcement, then as the family support plan — would it not make more sense to enforce court-ordered access and the 1985 divorce law which says that both parents should have equal rights to custody of their children and that custody should go to the parent most likely to facilitate access to the child for the other parent?

As long as hearings into the family responsibility act ignore the payor's side, no meaningful solutions to the support problem will be found. Ignoring support payors is like ignoring customers. It's bad business.

**Mr Flores:** I'd like to mention that the government supports to do out spousal support since the support payments aren't geared to income. That is spousal support; in many cases second spousal support.

#### GENE COLOSIMO

**Mr Gene Colosimo:** My name is Gene Colosimo. I'm a deadbeat dad, so I would think you'd like to hear from me and know what it takes to get me to comply.

Is there anyone here who doesn't know that men who have regular and meaningful access to their children have a compliance rate of some 80%? Is it 77%? Does anyone know exactly? Is it 99%? We know it's more than 65%. Is there anyone who can contest that?

Any support plan that does not address access, which is inextricably amalgamated, will fail. You cannot tear my heartstrings from my purse-strings. My wife and I have spent \$180,000 on legal fees alone. My support order is \$5,000 a year for 18 years, which is some \$90,000. I have already spent more than my lifetime commitment to my child. Does anyone want me to pay it again? You already got it and I don't see my little girl. I have not seen her face in two years. She only lives in Newmarket, some 30 minutes way. I could have been there before I got here.

You cannot have it. I won't give it. Every time a woman gets up here and says, "Oh, I need money," don't be fooled by crying eyes. Ask the woman one question: "Does your husband have joint custody? Is he seeing the children regularly?" You know what you'll hear? You'll hear, "Oh, he doesn't want to see the child." If I had a dollar for every time I heard a woman say, "He doesn't want to see the child," and gave a dollar for every man who said, "I don't want to see my child," I'd be a rich man. You want my support? Ask me what I need. I need my little girl.

I want to read you a little poem here that I wrote hastily. It's not finished. I may mail it to you.



**The Chair:** Excuse me, sir. You have one minute. I'm sorry.

**Mr Colosimo:** Very quickly:

I had a home, a job, a wife,  
a loving child and a zest for life,  
But I lost it all in quick succession  
and sank into a deep depression.  
Divorce was quite a revelation —  
not a split, devastation.  
They took my child, my joy, my soul,  
and left my life a gaping hole.  
So with legal help I fought the system,  
not wishing to become a victim.  
Don't take my child away from me,  
please, Your Honour; show sympathy.  
No matter what else that you do,  
don't break my lonely heart in two.  
But family court was not the answer;  
they squashed my claims like a sprouting cancer.  
It seems too few men have the right  
to know their kids or stomach the fight,  
And those that do fight on their own  
soon feel the lash cut to the bone.  
They pushed my back against a wall  
and jerked my strings like a marionette doll.  
"Conform," they said, "Don't rock the boat."  
The support plan has you by the throat."  
Give me back my child or let me be;  
don't talk of financial responsibility.  
I looked to justice to prevail

but spent six months in the county jail.  
Each day pent up I grew more wild:  
Was this in the best interests of my child?  
A little girl I could not see  
in Canada? How can this be?  
Access denial is child abuse,  
but it's pay support or wear the noose.  
The law's an ass; it must be changed.  
Are the politicians all deranged?  
This has all the ingredients  
for civil disobedience,  
But six years of fighting have left me broke.  
When I think of my little girl I start to choke.  
I spend most days now in the park,  
feeding pigeons till after dark.  
On human rights we built this nation,  
but family court was male castration.

I'm no longer employed. I have five years' post-secondary education. I'm on welfare. This is a fight to the death. You cannot take my little girl from me. I paid my support and I would pay it gladly. Let me see my child.

**Interjection:** Any questions?

**The Chair:** No. I'm sorry. The order of the House only permits us to sit until 9, which we have done. I thank you very much, Mr Flores, for your presentation here this evening.

We are adjourning till 3:30 tomorrow afternoon and I ask the subcommittee to remain for a minute to discuss two matters.

*The committee adjourned at 2100.*



## STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

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\*Mr David Tilson (Dufferin-Peel PC)

Mr Bud Wildman (Algoma ND)

*\*In attendance / présents*

### **Substitutions present / Membres remplaçants présents:**

Mr Pat Hoy (Essex-Kent L) for Mr Conway

Mrs Margaret Marland (Mississauga South / -Sud PC) for Mr Doyle

### **Also taking part / Autres participants et participantes:**

Mr Rick Bartolucci (Sudbury L)

Mr Gilles Bisson (Cochrane South / -Sud ND)

Ms Marilyn Churley (Riverdale ND)

Mr John C. Cleary (Cornwall L)

Mr Bernard Grandmaître (Ottawa East / -Est L)

Mr Peter Kormos (Welland-Thorold ND)

Ms Shelley Martel (Sudbury East / Est ND)

Mr Richard Patten (Ottawa Centre L)

Mrs Lillian Ross (Hamilton West / -Ouest PC)

Mr Ken Goodman, legal counsel, Ministry of the Attorney General

**Clerk / Greffier:** Mr Douglas Arnott

**Staff / Personnel:** Ms Susan Swift, research officer, Legislative Research Service



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# Official Report of Debates (Hansard)

Thursday 5 December 1996

# Journal des débats (Hansard)

Jeudi 5 décembre 1996

**Standing committee on  
administration of justice**

**Comité permanent de  
l'administration de la justice**

Family Responsibility  
and Support Arrears  
Enforcement Act, 1996

Loi de 1996  
sur les obligations familiales  
et l'exécution des arriérés d'aliments



Chair: Gerry Martiniuk  
Clerk: Douglas Arnott

Président : Gerry Martiniuk  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Thursday 5 December 1996

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Jeudi 5 décembre 1996

*The committee met at 1549 in committee room 1.*FAMILY RESPONSIBILITY  
AND SUPPORT ARREARS  
ENFORCEMENT ACT, 1996LOI DE 1996  
SUR LES OBLIGATIONS FAMILIALES  
ET L'EXÉCUTION DES ARRIÉRÉS D'ALIMENTS

Consideration of Bill 82, An Act to establish the Family Responsibility Office, protect the interests of children and spouses through the strict enforcement of support orders while offering flexibility to responsible payors and make consequential amendments to certain statutes / Projet de loi 82, Loi créant le Bureau des obligations familiales, visant à protéger les intérêts des enfants et des conjoints grâce à l'exécution rigoureuse des ordonnances alimentaires tout en offrant une certaine souplesse aux payeurs responsables, et apportant des modifications corrélatives à des lois.

DEL WEALE

**The Chair (Mr Gerry Martiniuk):** Our first presenter today is Ms Del Weale, who has given us a written submission. Please proceed.

**Ms Del Weale:** I have been with the family support plan since 1992. My ex-husband claims he is self-employed; therefore, his salary is not garnisheed. The family support plan relies on him to send in his cheques as requested by the court. Unfortunately for my children, my ex-husband arbitrarily makes deductions from his payments. Since there has been no penalty or enforcement from the family support plan, he continues to do this and now is in arrears to an amount of over \$1,700. I personally feel that if Bill 82 is passed, the biggest benefit to my case is the connection to the driver's licence. This is the enforcement that will keep these payments up to date.

There are good fathers out there who willingly make their child support payments regardless of the family support plan. They should be allowed to opt out of the system. They don't need the embarrassment of the garnishee of their salary. This would remove some of the workload the family support plan has to deal with and enable it to concentrate on the people who cause a need for the system. Children of divorce should not be penalized.

I'm sure there are hundreds of women with arrears greater than mine, but without enforcement, I myself and other women are nowhere and our children suffer. To return to court would be very costly for me as well as time-consuming and stressful. Please pass this bill, not for me, but for my children. Thank you.

**Mr David Ramsay (Timiskaming):** Thank you very much for your presentation. I want to let you know that all three parties are working very hard to pass this legislation. We want to see it through as quickly as possible. What we've been doing is, after our first day of hearings yesterday, picking up some of the ideas we've been hearing as to how to improve the bill. Today we've been working on our amendments and have already submitted some to legislative counsel. I know the minister wants to review those, and I think many of them he will see as friendly amendments and might incorporate some of those things. Monday afternoon, I guess by about 8 o'clock in the evening, we will have completed all the clause-by-clause study and any consideration of amendments that are there, so that we should be ready to pass this bill next week. All the parties are supportive of that.

I am very pleased with some of the mechanisms in this bill that are particularly going to affect your case, especially in regard to self-employed people, where a garnishment is not possible. I'm very pleased with the flexibility the bill has in going after other types of monetary draws, commissions, other types or forms of payments that a business could forward. I think we've got most of it covered and we're always going to keep our ears open for any new ideas or new angles or ways deadbeat dads have been finding to circumvent their duty and further develop those amendments over the next few days so we're ready Monday to get the clause-by-clause completed to get it in the House and get it passed next week.

**Mrs Marion Boyd (London Centre):** Thank you for coming today. I know it's always difficult, and when you have to tell your own personal story it makes it really tough. I would just echo what Mr Ramsay has said. There are many, many good things in this bill and certainly the enforcement processes are ones that our party agrees with entirely. We have some problems in other parts of the bill, but we've made an agreement that we will complete discussion of possible amendments soon.

I think your fear — and you've expressed it before rather forcefully — that it might not be passed is groundless; that was never an issue. The minister was certainly told me by, and I assume by my Liberal colleagues, that while we had concerns about the form of the bill when it was introduced on October 2, we were anxious to discuss it and get it through. You can rest assured we will do that.

You're quite right, there are many women who are owed a great deal more money than you are, and that's one of the concerns we have because the director could refuse to enforce an order where there is a large amount of arrears owing under the bill. That's one of the issues we want to deal with.



**Mrs Lillian Ross (Hamilton West):** I would just like to make a statement as well. Thank you very much for coming forward. We really do appreciate it. We are all very supportive of doing what we can to help women and children.

I just wanted to address the issue of arrears and tell you a story that might interest you. I raised a question in the House where a woman was owed support payments in the amount of \$4,000, which I thought was horrendous. After I asked that question in the House, another lady called me and said, "I want to know if that was me you were talking about because you had the number wrong; it was \$24,000." I think that's astonishing. I just want to say that we're very much in favour of doing what we can to help you.

**Mr Garry J. Guzzo (Ottawa-Rideau):** I too would like to thank you for your presentation, but let me throw some cold water on some of the ideas that have been presented. I have not the same confidence that people like you will meet with the positive results that others think this act will bring about. In your case, the driver's licence might be the answer, and if it is, good. In many cases it will be, but one of the members of the third party, Mr Kormos, made a very sound observation on opening day in this committee when he said it's a question of attitude.

There has to be a change in attitude and it has to start with the judiciary, it has to start with the judicial operation of the court that administers and will administer this particular plan, because you see, the issue of default and the issue of arrears is not taken seriously. Last night, in a discussion with a former Attorney General employee I asked her if she had ever, in her time, heard of a case of perjury resulting from a matrimonial matter or a default matter. She told me she had heard of one. I've practised law; I've been in the legal profession as a practitioner and as a judge for 22 years. I've seen perjury cases from accident cases, from contract cases, but not from matrimonial cases.

If people don't take it seriously, and until we start to see this for what it is, a form of child abuse, and punish people in exactly the same manner, until that change in attitude takes place, we will not see the positive results that we should see and hope to see. It is a step in the right direction. There will be changes to this bill and we will support some of them, I hope; I will, individually, and I think as a party. But that's the change, the same attitude, the same change that Mr Kormos referred to when he talked about the incidence and acceptability of impaired driving 20 years ago and the lack of that acceptability today. Until we see that we will not see the positive results we're hoping for, but again, I commend you for coming here today. We appreciate your attendance.

**The Chair:** Ms Weale, what is the age group of your children?

**Ms Weale:** Ages 10 and 12.

**The Chair:** Does your husband avail himself of regular access?

**Ms Weale:** Yes, he does. I never withheld access because of child support payments.

**The Chair:** Thank you very much for your assistance here today.

KENNETH PERRY

DARLA PERRY

**The Chair:** Our next presentation is from Kenneth Perry and Darla Perry. Mr and Mrs Perry have driven down from Windsor today, I understand. How was the traffic and the weather on the way here?

**Mr Kenneth Perry:** Driving's not bad until you get to Toronto.

**The Chair:** Yes, it's usually like that. Please proceed.

**Mr Perry:** I'm on the opposite side of the coin is about the only way to put this. I am being garnisheed over and above what my support payment is for. They're claiming that I'm in arrears, whereas now I have payroll deduction so I cannot be in arrears, even prepaid from my vacation so they would have this, but we cannot get any answers. You can't get through to anybody.

I don't like the idea of some of these things they're going to be coming up with, for instance, taking your driver's licence away. Would they come and take mine away even though I'm not in arrears? Even though Sandra Pupatello's office called down, and when they finally got through they said I was not in arrears, but they have been taking away for nine weeks this extra \$25 and you can't get anything to be stopped about it.

My concern is when I'm coming to these things. At vacation time, invariably, they always take off five weeks' support even though we're only going to be off for two weeks. When we had an office in Windsor you could go down and explain to them and they would have a form which they filled out and you would eventually get your money back. Another thing is, last year again they took my income tax. I was not in arrears, but they took it anyway. I guess they have a five-year standing order or whatever. But at least you could go down and talk to somebody and they would fill out the proper forms and have your money sent back, but the big thing is that there's nothing I can do about this. There's nobody you can talk to. You try to call through down there and nothing is being done. I'm just concerned. Like, would I lose my driver's licence and who can I see about getting my money back?

Another point is that my daughter, who is 24, will be done school in April. How do I get this stopped for her and how do I go to the next step? My next daughter will probably be done next January. How do I stop this and how do I get this back that they have?

I guess the biggest problem I have is I work with Chrysler Canada in Windsor. I guess Chrysler does not send the money weekly, so they keep saying you're always in arrears. But I have all my pay stubs for the last two years. There's never been a missed payment. That's basically what I want to say.

1600

**Mrs Darla Perry:** I'm nervous, so excuse me for a minute. The other thing we want to know about is that since they took 50% of his income tax last year for no reason at all, he didn't get the interest on his money. So when they do take his money, where is the interest going? Right now, with the garnishment against him, who's making the interest on his money? Will we get that interest back? This is supposed to help the children. You're also messing up some people's lives.

You have to go after the deadbeat dads. Leave the dads who are paying every week, on time, alone. These are the ones who are starting to hurt, not the deadbeat dads. You're not going after them. People at the Big Three are an easy target, especially somebody like my husband who has got 32 years in. He's not going to quit his job. He's been paying for nine years but he's getting nothing in return. He keeps getting stepped on.

Now that the office is closed, we have no recourse. How do we go about it? The office isn't even open here in Toronto. So how are we supposed to get this garnishment stopped in the first place when there's nobody you can turn to? There's no sense going to a lawyer, because she can't get through either. There are so many different things. Everything's supposed to be for the children, and those are the ones who are suffering, as well as the people who are maintaining support payments.

I've got a whole list of stuff here, but I won't go over everything. Let me just run really quick through it. Do you know when the office will be set up in Toronto? Because if I have to come down here and make an appearance again, I will drive the four hours.

**The Chair:** Excuse me. The assistant to the minister, Mr Tilson, has just suggested that once you finish your presentation, he's going to take you out in the hall and attempt to solve your problem.

**Mrs Perry:** This has been going on for almost 10 weeks now.

**The Chair:** I'm not justifying what has occurred to you. I'm just stating the facts, that's all.

**Mrs Perry:** If we can get some answers, fine.

**Mrs Boyd:** How many minutes left?

**The Chair:** We have at least five minutes per caucus.

**Mrs Boyd:** Thank you very much for coming. I really appreciate your frustration, because I think the intention, obviously, of all of this would be to make sure that we're rewarding people who are faithful payors, rather than the other way around. You've been paying for nine years, so you would have started off long before there was really any system, I guess.

**Mrs Perry:** No, there was a support system. SCOE was in place when we started.

**Mrs Boyd:** Okay, so it's not quite nine years then. But the problems that you're talking about now, this business of being deemed to be in arrears because your company, following the law, remits your deductions at the end of the month in which they're deducted — that's what's happening. The law permits them to do that. They only have to remit at the end of the month in which the deduction is made. You're saying that you've been counted to be in arrears because of that?

**Mrs Perry:** Yes.

**Mrs Boyd:** When did that start?

**Mr Perry:** Nine weeks ago they deducted it; then they sent us a letter stating that they were going to deduct it.

**Mrs Perry:** We were sent the letter after the fact of being garnished. There was no correspondence prior to that to give us a chance to go into the office before it closed and say, "Hey, what's going on?"

**Mrs Boyd:** So your problems really started with the change in the system. That's really what you're trying to talk about.

**Mrs Perry:** Yes, that's the major change. Just as one office was closing and the other one was supposed to be opening up, that's when everything happened, and that's when you can't get answers.

**Mrs Boyd:** I know in London, because I had a lot of experience with the office there, the workers in the London office often said it was the payors who needed a local office more than the recipients, because often those kinds of issues that you raise can be straightened out right away. One of the issues around drivers' licences, for example, is that you get 30 days' notice and you have to have either paid or made arrangements to pay. When you could go to the local office, it would be easy to make the arrangements to pay. When you don't have that local office, it creates a problem.

**Mrs Perry:** A big problem.

**Mrs Boyd:** One of our concerns about the vision here of the plan is that you couldn't even see anybody if you drove four hours under the plan as it exists. This is not to be a walk-in office. So it's very dependent on making sure that people can actually get an answer by telephone or in a written form. It certainly has shaken people's faith in the system, what's happened in the last little while.

**Mr Perry:** But in the case of not being in arrears, how can you get to somebody and say, "I have proof right here that I have paid," if there's no walk-in office or somebody you can sit down and talk to?

**Mrs Boyd:** I understand your problem and I share your concern. Can you tell me one thing: Do you know whether your ex-partner has been receiving the support money?

**Mr Perry:** I have no idea. I asked my daughter just last weekend, prior to coming up, and as far as she knows, yes, she's having no problem.

**Mrs Boyd:** That's good, because that isn't so in some cases. We've heard of cases, for example, with Inco and with Hydro and with some of the other big employers that although they've been remitting the money, the money hasn't been flowed to the partners. So I'm glad you didn't have that problem, because for payors who are frustrated about the process and who then are getting calls from their children that they don't have any money, it's been really quite horrendous.

**Mrs Ross:** Thanks very much for coming forward today. I'd like to ask you a couple of questions. The first one is, as in anything you try to do where you're changing things, there's a transition period and it causes some problems, and no doubt you've experienced those problems. But I'd like to ask you: If you could solve your problems through a telephone call instead of driving four hours or whatever it is, would that not make it easier for you?

**Mrs Perry:** It would, but I think I'd get further ahead if I made the drive myself, because you keep getting put on hold; you get interruptions. When I talk to somebody, I want to see their eyes and I want to show proof that we're not in arrears. How can I show proof on the telephone? We fax things down and get no answer. So unless you can show actual proof and then fill out the proper forms right then and there, rather than waiting for the mail to come through — you're just better off in person, especially when you're dealing with trying to get



your money back. If you wanted our money: boom, like that. But to get our money back is going to take forever.

**Mrs Ross:** Let me ask you then: For nine years you've been paying support and you have never been in arrears. Correct?

**Mr Perry:** No.

**Mrs Ross:** They say you're in arrears, but —

**Mr Perry:** One time at the beginning there was a missed one. I guess somebody just didn't understand the legal writing about psychiatric help. They said I owed so much money. I went back to the lawyers and they sent the letters, but they garnished anyways. But that is the only time, other than the one more dispute when my daughter left for seven weeks and I refused to pay because I was actually supporting her. My lawyer said it was cheaper to pay it. That was the second time I was in arrears. Then we opted to go on to payroll deduction. It's easier for me to go on payroll deduction than to go down every week and give them a cheque. But I'm sorry now.

**Mrs Ross:** I guess my question then is, if your payments are up to date and they're being taken off through payroll deduction, would this not be a case where you and your former spouse could opt out of the plan?

**Mrs Perry:** Not likely.

**Mr Perry:** I won't have anything to do with that.

**Mrs Perry:** She wouldn't agree to it anyways.

**Mrs Ross:** She wouldn't agree to it?

**Mr Perry:** This has got to be something that's going to be handled so it's done bang, bang, bang. That's why I liked the idea of SCOE or what it's called now: because it's all done legally, bang. She can't come back and say this and say that.

**Mrs Perry:** She would never agree to it in the first place.

**Mr Perry:** I don't want to opt out.

**Mrs Perry:** He has to pay the rest of his life.

**Mr Perry:** When they had the office downtown, you'd go down and explain to them, even if I didn't agree with their findings. When they took my income tax, they kept back one week because they said, "You're a week in arrears." I said, "Here's today's paycheque." They said, "We don't have that." So I said, "Okay, fine, keep the week." So then when they came and took my vacation, they took five weeks out instead of two. So we went down, filled out the forms. They said, "How much do you want back?" I said, "Keep a week." Now I'm prepaid for my vacation. So I didn't mind that, but at least you could talk to someone. But now —

**Mrs Ross:** You have no recourse.

**Mr Perry:** But they're still taking my money. It's only \$25 a week, but they're still doing it.

**Mrs Perry:** It adds up.

**Mr Perry:** To me, they're not supposed to be doing that.

1610

**Mr David Tilson (Dufferin-Peel):** Thank you, Mr Perry. Perhaps I could just make a couple of comments and then, as the Chairman indicated, I am the parliamentary assistant and I will be prepared to step outside the committee room with you, because some of the matters you're talking about are personal and this is all on public

Hansard. You may not wish to reveal all of these things, but we will do our best to assist you.

You spoke of problems with your income tax rebate being seized. That took place, what, last year? So it sounds like there's been a combination. It sounds like you've had bad luck with the plan for some time. I understand that; that's part of the problem. There have been problems with the plan as it was; there have been problems with the transition stage. We're trying to create a new plan that we believe will be more efficient.

If you've listened to the debate on television, you've heard both sides of the arguments and I don't think we need to tell you any more about that. What you're here for is some solutions to your problem. That appears to be one of the reasons you're here. It's unfortunate that you had to come all this way to do that.

The Liberal opposition may have some questions. If not, I'm prepared to speak to you outside the committee room and provide whatever assistance the Attorney General's office can give to you.

**Mr Perry:** Thank you.

**The Chair:** Thank you very much, Mr and Mrs Perry, for attending here today and assisting us all the way from Windsor. As I said, Mr Tilson will accompany you outside and hopefully solve the problem once and for all.

#### JAI MILLS

**The Chair:** Our next presenter is Jai Mills. There is a written presentation, which is being handed out. Welcome to the committee.

**Ms Jai Mills:** I'd like to thank the committee for this opportunity to present my views on Bill 82. I'd like to provide you with some personal comments in terms of what my background has been and what brings me here today and the background for the comments that I'm about to present to you.

I've been working as a social worker in this province for the last 20 years. Most of my experience has been with people with mental health issues and with women who have been assaulted in the context of a marital relationship.

At the present time I'm employed on a full-time basis by a small community mental health program. I continue to work on a relief basis at a shelter in the greater Toronto area and have done so for the last 10 years.

I was separated in 1991 after nine years of a very abusive marriage. I obtained a divorce in 1993 and am the custodial parent of two children, ages 9 and 14, from this relationship. In 1994 I chose to register my support and custody agreement with the family support plan because I was not able to successfully recover my support funds from my ex-partner. In fact, it put me in a very dangerous situation to persist in doing that. So it was my feeling that in order to ensure my and my children's personal safety, it was advisable to file the agreement.

I'm here today to represent my personal interest and also my professional interest, because I have met hundreds of women over the years who will be affected by the changes you are proposing here today. I think we all have the same goal, and that is to ensure the welfare of the children of Ontario. This was the premise, certainly,

behind the formation of SCOPE and later the family support plan. Parents need these funds to adequately care for their children and to ensure their overall health and wellbeing. The intermediary family support plan is there to ensure that this happens, that they receive these funds. These funds are intended for the welfare of children and not for anyone else.

In order to establish this goal, the family support plan must be re-established and it must be established as effective, flexible and responsive to the needs of the people it is serving, namely, the children of this province. The current operation of the plan falls very short of this and there are many children in this province tonight who are going to go to bed hungry because their parents have not received their child support payments on time or at all.

There was a contingent of women from Barrie who were going to accompany me here today and were unable to do so because they could not afford to get here and because there was no provision for the coverage of their expenses.

I personally have had to resort to sending a continuous fax to the family support plan in order to receive my support funds. The emotional cost of this has been great for me and for my children. It's my hope that this bill will address some of these concerns and that the plan will be returned to a more effective mode of operation as quickly as possible.

I see Bill 82 as a positive document in that it recognizes the importance of providing child support funds and clearly sees that the purpose of these funds is for the upkeep of children. But there are some questions that came to my mind as I read through the bill, and these are the things that I would like to raise with you today.

The portion around the assignment of the director's powers: I really don't see how this would improve the plan, since new costs would be introduced in the form of fees. Would these fees not detract from the funds intended for the support of children? What assurance would there be of confidentiality or quality control? How would this measure improve the plan by contracting outside of the public sector?

The domestic custody enforcement provision, I believe, is very important. Ontario's legal aid plan is in crisis and many of its services have been pared to the bone. After an application fee has been paid and the application processed, only then is someone able to access these services. By that time, children could be beyond the point of being able to be recovered.

In cases where the legal aid plan would not be used, this would create a great deal of expense to custodial parents who do not qualify for or choose to use the legal aid system. Again, the result would be that many children would not be returned to their parents in any kind of timely manner. I believe this is a safeguard that must be retained in the new family support plan and in fact strengthened.

Impractical enforcement: I wonder what criteria will be used to determine a file as unenforceable and uncollectible. There may be files that are able to be classified in this manner, but I think this determination should be made with clear criteria and with a court order that makes these criteria clear on record.

Enforcement against estates provision: this is a reasonable premise but it does create an additional responsibility for the support recipient in terms of legal remedies. Will legal aid resources be made available for those who choose to seek dependant relief under the Succession Law Reform Act?

The parties' ability to withdraw concerns me to a great extent. Those of us who have advocated on behalf of abused women and who have been abused ourselves in the context of personal relationships are very aware of the economic abuse that goes on and the kind of strong-arm tactics that can take place, as well as the cycle of abuse which is far too social-worky for me to get into here now, but it is a factor. I'm concerned that if people are allowed to withdraw from the plan, either they will not receive their funds at all or in a timely manner, or perhaps they may be more subject to abuse, physical, emotional or otherwise.

I think if this provision is to remain in the new bill, there must be a stipulation there that those who have been convicted of spousal assault should not be permitted to withdraw from the plan. Certainly if someone has withdrawn from the plan and subsequent to that there is a conviction of criminal harassment or abuse or assault, I think they should be required as part of a court order to return their child support collection to the plan. I also think it's important to look at the arguments for why someone is withdrawing from the plan, and it is important to include that in support and custody agreements.

The suspension of licences is a measure that I very much support. However, I must ask if the judicial system will be modified in order to accommodate the petitions to vary orders or the legal remedies that will be required in those circumstances. Certainly it's conceivable that someone's application to have their driver's licence reinstated in the case of a mistake could take a very long time and cause them to lose their livelihood and, subsequent to that, the support payments that they are supposed to be paying, or on the other hand that inordinate delays will cause great suffering to the children these funds are supposed to help.

#### 1620

Ability To charge fees: If it is the aim of the family support plan to ensure that child support funds are used for the care of children, how can user fees be justified? The fees would only divert funds away from children to the coffers of the provincial government.

User fees would prohibit parents from using the services of the plan to their full extent in order to avoid these fees. For example, a woman who's been assaulted and on a limited income may think twice about registering with the plan if she's expected to pay a user fee. Referring again to the Succession Law Reform Act, would those people be charged a user fee if they were to reapply to the family support plan? To be honest with you, when I call the family support plan on a daily basis to find out that my cheque which is three weeks late has not been paid, I would not appreciate paying a \$2 charge to learn that information. I fail to see how user fees would improve the services that the plan offers to Ontario's children.



Thank you very much for considering my comments. That's all I have to say.

**The Chair:** Thank you, Ms Mills. If I just could clarify something on behalf of the committee, there was a considerable time restraint put on this committee in scheduling these meetings, but this committee did authorize the subcommittee to prepay expenditures of witnesses in advance in the event that they were in need. In fact we did that on two occasions. Unfortunately the word did not get to the Barrie group soon enough for them to attend. We regret that, but there was accommodation made.

We have the government. Are there any questions?

**Mr Guzzo:** First of all, thank you for coming. It's helpful to have your professional views as well as your own personal situation. It's very difficult for people who have not been involved in the circumstances to appreciate the extent of coercion that can be exhibited even after a separation or a divorce is completed.

I'd like you to just tell me, if you wouldn't mind, the nature of the work your husband does. Is he self-employed?

**Ms Mills:** My ex-husband?

**Mr Guzzo:** Your ex-husband. I'm sorry.

**Ms Mills:** Thank you for using that term. No, he's not. He works for a local lumber company as a salesperson.

**Mr Guzzo:** Is he a commission salesperson?

**Ms Mills:** No, he has a salary plus a commission.

**Mr Bruce Crozier (Essex South):** Thank you for coming. I agree with your statement, and I'm pleased that you made it, that we are all here for the same goal and that is to improve what has happened in the past and/or make improvements in the proposed bill. Can you give me some idea what your experience has been in the past with the family support plan the way it is now, ie, the more distant past and more recent past.

**Ms Mills:** In the distant past my payments were occasionally one or two days late but I could count on getting them in two-week intervals, which is what my court order stipulates. However, since August they have been completely unreliable. I have no idea when they're going to come. At one point my payments were about two months behind. I had to go to my bank and ask to be excused from paying my mortgage in order to provide for other expenses. To tell you the truth, the patience of the bank is wearing very thin. Financial institutions don't understand that the plan is in a state of flux and that while the funds are supposed to be flowed, they're not being flowed. It's been very difficult for me to maintain my economic integrity through all of this.

I know that the payments are being made and that they are somewhere in the system, but they are not reaching me. I received one phone call from someone about two months ago who informed me that while they had settled my account for two of the payments that I was missing, they couldn't understand how I could have spent all that money at once and why I needed the next payment, which was in fact a week late.

I find that in this transition there doesn't really seem to be any understanding of how difficult this is, and I have been made to feel in my contact with the staff at the plan that I am somehow some really annoying woman who obviously is just begging for money. It's not looked

at as my right to have this money, and that concerns me very much.

**Mr Crozier:** That's an unfortunate comment from a faceless person on the other end of the line.

**Ms Mills:** Yes, it was.

**Mrs Boyd:** Thank you for coming, Ms Mills, and I want you to know that I really appreciate the comments you've made about particular pieces of the bill. Our concerns are very similar to the concerns that you have, although our solutions aren't always the same. It's very good to get the view from someone who is working daily with people who are in this circumstance as well as has experienced herself.

I know the disruption in the plan has really created a lot of problems for service providers, as well as the service providers themselves when they're in your position. This business about what people are being told on the phone I think is really disturbing because there had been a real effort in the family support plan to train people with expertise and sensitivity into the issues. When the bombshell dropped on August 15, those experienced people went and we understand the phones were being answered by temporary people hired by a number of different temporary help firms. They had no training. They were very insensitive, and your experience is not unique unfortunately.

What that has caused is a lot of concern about the integrity of the plan, and our concern is that because this disruption has now gone on for four months and there's no end in sight, it may encourage people to opt out of the plan. Do you share that concern?

**Ms Mills:** I seriously considered opting out of the plan, and the only reason I have not is for my personal safety and the safety of my children. If that was not a consideration, quite frankly, I would opt out. I know a few other people, one of them being the clerk in my lawyer's office, who told me that she had "had it with the plan" and she had in fact opted out. I think that's happening all over the place and people probably, without quite a concerned eye to their safety, are choosing to opt out. It will be to their detriment I think in the long run because this plan needs to exist.

**Mrs Boyd:** And to our cost in the long run, because obviously if it creates more hostility, we're going to see people back in court more often, we're going to see problems around custody, we're going to see problems around assault, and that's going to be a major issue, isn't it?

**Ms Mills:** That's right. Yes, it is. It's very dangerous. In the shelter I hear the same thing: "I'd like to be able to pay the rent on my apartment but I got kicked out because I didn't have the support funds there to pay." People are frightened too that if they go and advocate with the plan that somehow, because the attitude of staff has been so rude, they'll actually hold their payments up on purpose. It's very difficult for people to take on the powers that be and object to what's going on.

**Mrs Boyd:** I think there's a real concern that people will assume there's some kind of conspiracy to destroy the plan. Certainly that is what we've heard from many women whom we've been dealing with in our offices. They really believe that the government wants to divest

itself of this responsibility, and one of the best ways to do that is to destroy the confidence that the plan has built up over many years.

**Ms Mills:** Women in Ontario have lost a lot over the last year. We've lost pay equity and we have lost the family support plan and we have lost battered women's shelters and second-stage housing funding. That's very scary. It's not a nice thing to be a woman in Ontario these days.

**The Chair:** Ms Mills, thanks for assisting us here today.

#### JOAN FIELD

**The Chair:** Our next presentation will be by Joan Field, the past president of the Emergency Shelter Foundation of Hamilton-Wentworth, second-stage housing and counselling program. Welcome, Ms Field. I'd ask you to proceed.

**Mrs Joan Field:** Thank you. I appreciate the opportunity to come and speak to the public hearings of this committee.

I would like to say, before I start on what I'd planned to say, that Mr Tilson's remarks have made me aware that — I don't know whether you have the written copy of what I'm going to say, but I have mentioned the names of two women in our program. I am not going to mention them verbally, and I would like you to cross them out on your slips because I didn't realize that this was going into Hansard.

**The Chair:** Would all members please try to cross out any names of individuals that appear that Ms Field might be referring to.

**Mrs Field:** I have entered three cases, and in two of those cases I do mention the names.

We were informed of the hearings last Friday, and then on Monday we were told there wasn't enough time because the demand had been so great, so we didn't start preparing anything. Tuesday afternoon we were offered this 4:30 time today. We took up the offer and here I am, but I'm much less well prepared than I could have been if we had had more notice as presenters. I was not able to get a copy of Bill 82 anywhere in Hamilton; otherwise, my critique of the bill itself would have been more detailed.

1630

My message to you, in short, is: Think about the repercussions before introducing some of the changes that are being proposed.

I will tell you about how a particular group of women and children have been affected by the changes that the Attorney General's ministry has made in the past four months. I'm speaking of the second-stage housing program of the Emergency Shelter Foundation of Hamilton-Wentworth.

Case 1, a current user of our program, has had one family support cheque in the past four months. She has had to resort to food banks for herself and her children for three months.

Case 2, a former user of our program and now a member of our board of directors, did not know that she had a problem last September until Hydro called to say

her cheque was NSF. Normally, money from her ex-husband went directly into her bank account, but when the reorganization of the family support plan started in August and the Hamilton office was closed, her cheques were stuck in limbo along with thousands of others.

Case 3 is a former user of our program. In September, when two support cheques failed to arrive, she tried to phone the ministry and finally got through after two weeks of trying. She was told to fax the particulars of her case to the ministry office. It took more than 10 days to get a response to a fax which cost her money she could ill-afford.

To me, this illustrates a lack of understanding on the part of the justice ministry of the situation in which these women find themselves. I'm speaking particularly of women who are victims of spousal abuse or spousal assault, people the former presenter was talking about and has personal experience of. In this case, the woman had to finally apply for welfare to support her two children.

I wrote to Premier Harris on September 24 about these matters and had a reply from him on November 29. In his reply, Premier Harris said, "I know there have been delays in service in the first stages of these changes and we apologize for any inconvenience that has arisen." Just the use of the word "inconvenience" leads me to believe it is hardly a word to describe the devastating effect on victims of violence of finding themselves without money to buy food, pay bills and to care for themselves and their children in a dignified way. It's another blow to a life where the person has had repeated blows of different kinds.

The Attorney General said in the Legislature in September, "I am now taking steps to reorganize the plan" to make sure women and children get their money. As you all know, the problems being experienced concern cases where payments have already been made by garnishee or by cheque and the payments are stuck in the Attorney General's offices. The reorganization has failed to make sure that women and children get the money owed to them and get it on time.

I'd just like to mention certain aspects of the bill. As I say, I have not read the bill. I can't give you the details. I know of some of the changes that are proposed, and many appear to give more clout to the enforcement of support payments. Some of these are measures that we believe should be enacted, for example, the suspension of the drivers' licences of those in arrears of support payments, application of foreign orders to permit automatic support deductions — this, we believe, is a good thing — and garnishment of joint accounts when support payments are in arrears, another good thing.

However, there are other changes which appear to threaten the position of the women and children rather than make it easier for them to get their support cheques. The first example is the voluntary withdrawal. I think the previous presenter put this position very well. It's the threat to women who are so easily intimidated.

Legislation should avoid, at all costs, putting women in a position where they could be intimidated by a violent partner. Victims of domestic violence or any abused women are extremely vulnerable and easily intimidated. This opting-out proposal undermines the plan's intentions



to help them. I reiterate Ms Mills's suggestion that persons convicted of spousal abuse or spousal assault should not be allowed to opt out of the plan if this measure goes through.

**User fees:** To me, this is a preposterous suggestion. In many instances, you would be asking the poorest of the poor in our society to support the government with money they need to buy food for themselves and their children. None of the women in second-stage housing and counselling programs have money for faxing documents, filing reports, paying fees, paying government administration costs etc. Don't put a heavier burden on those who can least afford it.

The loss of person-to-person contact is another issue which I think should be looked at very carefully. Closing of the regional offices will, in the long run, prove detrimental to the efficiency of the family support plan. Communication by telephone is not a substitute for face-to-face discussion of extremely personal problems. The cost of communicating at a distance is an emotional as well as a financial burden to the person whose support payments are not forthcoming. Providing personal service is part of the job, and if you take on the job, you should do it right.

In summary, before implementation I urge you to consider carefully the effect of the changes that you propose on all participants in the plan, including the children. I appreciate you hearing what I have to say and thank you.

**Mr Crozier:** Welcome, Mrs Field, and thank you for your presentation. When it comes to methods of encouraging those who owe money to former spouses through the plan, one of the ones that you think should be enacted is the suspension of drivers' licences of those in arrears of support payments. I'm questioning whether that does anything to effectively collect the money owing. In other words, it doesn't prevent anyone from driving a vehicle, simply not to have their licence, because we have lots of them that do it on the road today. My concern is that if, for example, the person needs their driver's licence in a professional way, what do you think this would do? Would it help solve the problem or would it perhaps compound the problem if they then couldn't earn any money to possibly collect? Do you see a problem there?

**Mrs Field:** Yes, I do. The main thrust of that particular proposal, for me, would be that it is a very strong threat. Certainly for a person who earns their living driving a truck and has to make payments, I can see the problems there.

**Mr Crozier:** So it would be perhaps more, as you say, in the way of a threat, a signal, a way to get them in.

**Mrs Field:** To get them not to start holding back the payments.

**Mr Crozier:** Oh, okay. That's fine. That's a valid point. Thank you.

1640

**Mrs Boyd:** Thank you very much for coming, and I must say we appreciate hearing of instances where the problems you're dealing with are causing immediate difficulty, because it helps us to get a feel for what it's like out there. I guess that's what worries me with this new system. You point out that there doesn't seem to be

an understanding that women and children in this position don't necessarily have access to a fax, much less a phone, in many cases if they're not getting their support money. Many women are beginning to say, "I can't afford a phone." When they are in abusive situations, that's very dangerous, isn't it, because they don't have immediate contact with the police if problems arise, and they arise only too often.

**Mrs Field:** There are some women in our program who don't have a phone.

**Mrs Boyd:** The assumption that this great, one-stop scheme is going to make things a lot easier and a lot faster for people is really based on a notion of what technology people have access to, and it's quite far from realistic when we're talking about people actually needing every dollar that comes through family support to just keep them feeding and clothing their children.

**Mrs Field:** Here we're talking about women who have left their home — they could be upper middle class, and we have had some — with all the amenities that a good income can provide, and they leave with nothing. They go to a shelter for six weeks. They have to leave the shelter after six weeks, and they come into second-stage housing.

We provide, through donations that we're given, the furnishings, everything in the house, including bedding etc. So they do not have money to do anything except buy food and try to get their life together and look after their children.

**Mrs Boyd:** Of course, an abusive spouse knows that, and so it becomes part of the abusive cycle, doesn't it, because they know that if they don't get their money on time, they in fact are very vulnerable and very weak.

**Mrs Field:** It's another blow.

**Mrs Boyd:** It goes into that power cycle that is such an issue. Thank you for coming. I share many of your concerns.

**The Chair:** Mr Klees and Mrs Ross.

**Mr Frank Klees (York-Mackenzie):** I'll defer to Mrs Ross.

**Mrs Ross:** Joan, thank you very much for coming today. We've had discussions on services provided in Hamilton, and I appreciate all the work you do on behalf of abused women.

I'd like to address two of the issues that you raised; one is the driver's licence. I'm pleased to hear you say that you feel it's a very strong threat. As a matter of fact, yesterday when I sat in for a couple of the presentations, one of the women made that very clear, that her husband had not paid her \$17,000, I believe, owing, and all of a sudden last week she received a call from her lawyer that he was ready to start looking at how he could make up those payments. She felt it was because of that threat that that was happening, that it was coincidental that it was happening, but I believe that it is a strong threat. So, I'm pleased to hear you say that as well.

I'd like to talk about the voluntary withdrawal, the opting-out provision. There are some cases where there are separations and divorces where in fact there are amicable agreements, where people separate and the spouse does maintain the support payments. Those are the cases that we're really saying can opt out.



I know you haven't read the bill, so I just wanted to point out that under subsection 9(2) where there is abusive behaviour a judge can order that the parties cannot be permitted to opt out. So, in fact, we have looked at that, because we do want to protect women. In cases where men have been convicted of abusive behaviour or assault, they will not be allowed to opt out of the plan. I just wanted to point that out.

**Mrs Field:** Lillian, from what you're saying, it's the judge's responsibility to make the decision whether the person can opt in or out. Why can't that be put right into the bill? Why can't that be made a provision of the withdrawal section? There's no reason it couldn't be right in the bill, to say that if a person has been convicted of abuse or assault they would not be allowed to opt out.

**Mrs Ross:** Right, but that's what I'm saying. According to what I read anyway, that gives the judge the authority, I think, but perhaps staff can clarify that.

**Mrs Field:** Isn't it the judge —

**Mrs Ross:** I was just going to ask staff if they could clarify that.

**Mr Ken Goodman:** You're referring to subsection 9(2) of the legislation, which allows a judge to make an order, in the appropriate circumstances, that the parties cannot withdraw from the program for enforcement.

**Mrs Boyd:** That's what it says.

**Mr Goodman:** It doesn't make it mandatory if there is a history of abuse, but the discretion is in the court's hands to make that order.

**Mrs Ross:** I think, and I think you'll agree, that this bill does go a long way to helping women and children. It's a good step — a great step, I think — in the right direction. I hope you agree with that. There are perhaps some amendments that will be coming forward. I think probably all of us will be looking at some things that can be changed in it, but I hope you'll agree that this is a step in the right direction.

Thank you very much for coming. I do appreciate it.

**The Chair:** Thank you very much, Mrs Field, for coming here and assisting us today.

#### HYLA FOX

**The Chair:** Our next presentation is Hyla Fox. You have received the written presentation filed by Ms Fox. Just for the purpose of the record, we'll have a subcommittee report, but the subcommittee has directed the clerk to remove any case numbers and things of that kind that could be misused so that does not become part of the public record.

Welcome, Ms Fox. I'd ask you to proceed.

**Ms Hyla Fox:** Thank you for this opportunity. I have been waiting 13½ years for this, so I hope I don't blow it.

I'm a mom. I'm an elementary school teacher and a freelance writer. When I need money for my daughter and don't get it, I answer telephones for a telephone survey company, I work in a flea market and I babysit.

Bill 82 has to go forward to prevent any more children or moms from suffering at the hands of controlling, emotionally abusive, self-employed men. I filed for divorce in December 1983, he left in 1984, we were

divorced in 1986, and I am still in court fighting for child support.

My former husband is a practising criminal lawyer in downtown Toronto. He knows how to abuse and manipulate this system. He knows that court orders have absolutely no meaning, no worth. He knows there are no consequences for those who choose to ignore them. He knows the family support plan has no enforcement powers. He knows how to stall the case once it gets to court. Currently he is \$15,000 in arrears. Almost two years have gone by since we've seen any money.

In the package that I have submitted for your consideration I've enclosed a copy of our court order, which indicates that although my daughter is now 23 years old, she is still entitled to child support because there isn't a limit on it on her age. As long as she is in attendance at school full-time and, when not on vacation, resides at home with me, she has complied with all these restrictions.

Just to give you a little feeling for my daughter, she graduated from high school as an Ontario scholar. She won an award for academic excellence and outstanding achievement. To put a name to her face or a face to her name, I've enclosed a photograph of her that was taken at the school for the arts where she attends. It was on the front page of the Nelson Daily Herald.

I want to tell you that my ex-husband has, since 1983, consistently bounced cheques on me, on my daughter and on the family support plan itself. I've enclosed those for you to see. He never signs them; it's always his current wife or someone else. The first one is typical of the one that has gone bouncing. Many more prior to 1991 bounced, but I didn't want to go into that Pandora's box particularly. The one on the bottom half of the first page was written directly to my daughter and it went NSF. All kinds of chicanery have been played on us in our relationship with this man.

We went to court and got a variation in the court order in 1991. The deal was we opted out of the family support plan because of mail strikes, we weren't getting our money, there was no one to talk to — all the things you've already heard. His agreement was that he was to supply my lawyer with a year's worth of post-dated cheques to my daughter and a year's worth of post-dated cheques to me. When we opened the envelopes, they were signed by somebody I had never heard of before. My lawyer said, "Don't cash them," but that meant paying more money to go back to court again to get this solved. I thought: "I can't deal with this. I will accept them."

#### 1650

When they started to bounce, as I knew they were going to eventually, I had to find out who this man was. I looked through the phone book, did my research, found that he was a rabbi, phoned his wife. He's also left his wife and is not paying child support. I went to his place of employment and they wouldn't do anything to help us. The family support plan took about eight or nine months to straighten out this whole mess, until we got our money.

I've also enclosed in the package a fax from the family support plan that his cheque bounced, because I won-



dered how come I wasn't getting a cheque. They didn't send me the cheque because they took the money that came that particular month in lieu of the funds that had bounced the previous month. That was in January 1993. Of course, nobody ever phoned to tell me this was going to happen.

There was no food. We found out that popcorn is very filling. Yes, I am an elementary school teacher. I only make \$49,000 a year. I have a little house. The mortgage is \$1,000; the land tax is \$150. I have taken loan upon loan to help us out, and so to pay the loans it's \$450. Once a month I get a cheque from my pay, from my work, and it's only \$600. I can't send a child to university on \$600 and pay all the utilities and look after my car and the insurance and the house.

We went to court on May 31, 1995, and my daughter wrote a letter when she came home from school for me to take to the judge. I have enclosed that in the document that I've given you. She's outlined here very clearly another set of circumstances that have really set all of us aback:

"In September 1993, I began my post-secondary education at the University of British Columbia. I spent an entire year there and returned to Toronto in the summer to work. I had intended on returning to school again in the fall of 1994 but found myself in an unforeseen state of mind and life after a lengthy and terribly messy legal court case in which I was sued by and accused of conspiracy by my father....

"I stayed in Toronto and worked that fall and returned to school in January. Covering my own tuition and other expenses, I soon found that my meagre savings would surely not stretch as far as needed or expected. I hadn't applied for a Canada student loan because I had personally been denied aid due to my parents' incomes," and also because she assumed support payments would resume.

"While a full-time student, I was able only to work minimally. I did however have to turn to UBC's student-run Alma Mater Society for an emergency loan of \$700 which I must return before August 31 of this summer. Also my mother sent me whatever funds that she could. Without the support payments that I was expecting to resume, things were more difficult for me."

I sent her what I could, but at that particular time I was very ill and was a full-time patient at Princess Margaret. I couldn't work at any other jobs. I couldn't get any of my friends to loan me any more money because they didn't have any more to lend. So the only thing that I could tell my daughter was to go to welfare. This child of a criminal lawyer in downtown Toronto with a swishy office, with a Cadillac, with jewellery and a full-length fur coat had a daughter on welfare in British Columbia and he couldn't pay her child support.

"My father has chosen to deny me, my life and my happiness. Whether he realizes it or not, a father is always obligated to their child emotionally or financially. Not only has he defaulted on these responsibilities, but he seems also to take pride and pleasure in lying publicly about me with the single aim of clearing his name and soiling mine."

The Globe and Mail did an article about this situation and I've included that in your papers. This man, this criminal lawyer, said to Margaret Philp of the Globe and Mail, "What court in the world is going to make me pay for a 22-year-old who's got this kind of money?" She has no money. He sued her for \$500,000. He lost; he appealed to a lower court. He appealed in the upper court, where he won, and the children are seeking leave to the Supreme Court of Canada to reverse that decision.

In January 1995 — and I have included this with your material — the family support plan resumed enforcement of my order in light of the fact that my daughter returned to school. We initiated federal garnishment action and requested a writ of seizure and sale to be filed in the sheriff's office. In February we initiated a garnishment against the Ontario legal aid plan. Well, they did file a writ of seizure and sale; I went and looked it up. But it was for one month and it wasn't effective because nobody at the family support plan did anything about it. It was filed, but this man just kept right on trucking and it didn't mean anything.

I've enclosed an article that appeared in the Toronto Star so you can see what he looks like. It's about this court case that he won. He won all this money, he says, but still he couldn't afford to pay child support.

I've also enclosed an article that was in the Toronto Sun by Ian Harvey quoting a judge who heard a small portion of this case saying, "I'm not going to put someone in jail on a legal technicality," said Bean, who also refused to order Fox to resume monthly payments of \$741." How come?

Tracey Tyler in the Toronto Star quoted this particular deadbeat dad when he said, "I'm prepared to make my payments, but I want to confirm that she's really at school."

All these confirmations have been completely fulfilled.

Many months ago, this same criminal lawyer served papers seeking an amendment to the child support. That meant I had to hire a lawyer. So far, I'm into legal fees again for \$3,500 on top of all the money I spent in the past to get a workable court order that doesn't mean anything, and that cost me \$30,000.

Then this lawyer sued Ron Hurren, the head of the legal department at the family support plan, for \$6,000 personally in Small Claims Court, so he wouldn't attend any of my court hearings. The family support plan sent another lawyer one day. She was afraid to come back. The third day we were in court last week, no lawyer from the family support plan would come, so the family support plan had to hire an outside lawyer who came all the way from Whitby.

My ex-spouse has hired an expensive, well-known lawyer as discussed in Toronto Life's "Divorce from Hell" article. He has a law student who appears at every hearing that we go to. He supplies his own court reporter. He has hired a detective to follow my daughter around the province of British Columbia. He has found a way to get information on her bank accounts, but he can't afford to pay child support and no one is going after him and we continue to suffer all the time.

I want to close with some conclusions. Bill 82 is a really good beginning. It's a first step towards being able



to immobilize these self-employed men who, as you have just heard, are the most difficult to control. You should be able to attach all legal aid bills for those who do take legal aid, OHIP for women whose spouses are dentists, insurance policies for women who are ex-wives of dentists. And for these worst offenders, like my ex-husband, who are determined not to honour their obligations, you should be able to get at their pensions. This abuse of the system has to stop.

In addition, I really believe that professional governing bodies like the law society should be held accountable. They should be called in to examine how perpetually delinquent payors like this man are allowed to abuse the situation. The law society should be held responsible for the professional image their members have. Not obeying court orders, bouncing cheques on children, bouncing cheques on the Attorney General, shouldn't be brushed off as merely a family matter. Now I'm all emotionally charged, and I'm sorry. That's it.

1700

**The Chair:** Thank you, Ms Fox. We only have about two minutes per caucus, starting with Mrs Boyd.

**Mrs Boyd:** Thank you for coming. We do attach OHIP billings, just so you know; I think that has gone through.

There's no question that lawyers are the hardest. As you probably know, largely in response to your case, we spent about 18 months trying to get the law society to do exactly the kinds of things you're talking about. We were not successful and, unfortunately, did that at the expense of doing some of these other things.

I'm very hopeful that some of the changes in Bill 82 may make a difference, but you are in the position that many women who have been married to lawyers are in. They know the system well, they know the players in the system and they milk the system for all it's worth. In your group but also in the SCOPE group, the most heart-rending cases are very often those cases. I'm hopeful this will make some difference, but I think the lack of representation and the difficulty you have unfortunately are not going to be entirely solved by the bill.

**Ms Fox:** No, but if you get his licence, that will help. I think we also have to look at the judges too. They have to show some accountability.

**Mrs Boyd:** I couldn't agree with you more.

**Ms Shelley Martel (Sudbury East):** I'd ask a question on the provision for opting out. You would know that that is also part of the bill. I listened to you say that you opted out in 1991, and I assume at some point you opted back in, but I missed that, so I apologize for that. What do you think about that provision? For your own personal case, I understand the reasons you did it in the first place. Certainly this is part of the concern we have raised about where people will end up. Is there ability for someone to coerce someone into opting out, make a few payments and then stop? I wonder if you've got any insights for us on that part of it, as you went through it.

**Ms Fox:** For a case like mine, you can't opt out. There is no choice; you have to stay in. But there are lots and lots of people who have no trouble. My case, I think, is really unusual.

I would like to see the time devoted to pushing paper for people who have no problem with the system elimin-

ated so that there will be more people to sit on cases like mine — mine isn't the only awful one — and to answer questions.

The family support plan in the last six months has been terrific for me, just the opposite; it's been a flip. They've been very supportive all the time, and I'm sorry that Ron Hurren has been sued. I hope he's getting support.

**Mr Guzzo:** I want to thank you for coming. Let me say to you that self-employed people are a difficulty for the people trying to enforce these matters, but a self-employed lawyer is the worst possible scenario. I thank you for bringing it. I think it's important that we make note of the fact that it's not as unusual a case as some people might think. The law society, in refusing to become involved in matters such as this — and we had the situation of a former wife of a dentist last time. The governing bodies of the professions have to become involved. I gave an example of where a person doing business with an individual actually became involved and cooperated, as opposed to the governing body of a professional organization refusing to.

**Ms Fox:** There are some people who are holding this man up as a role model and emulating him because he's been allowed to go so far.

**Mr Guzzo:** I'm aware of that. Again I thank you for coming.

**Ms Fox:** Thank you very much for listening. After 13 years, it was worth it.

**The Chair:** You have one minute, Mr Klees.

**Mr Klees:** Ms Fox, thank you indeed. In some of the information you've presented, I read from an article: "MAFIA's message in targeting an élite group of fathers is to publicize the shortcomings of Ontario's family support plan," and this goes back to March 1995. When did MAFIA get established?

**Ms Fox:** I think about two and a half, three years ago.

**Mr Klees:** So the fact that there are problems with the family support plan is nothing new.

**Ms Fox:** Oh, goodness no. It was much worse before.

**Mr Klees:** Certainly it goes beyond the term of this government.

**Ms Fox:** Oh, yes. It's an ongoing problem, even before it was the family support plan.

**Mr Klees:** Your opinion is that the provisions of this bill at least are taking some steps towards addressing some of the concerns you've had. I'm particularly pleased about the comment you made with reference to the professions. I hold the view that not only should we be able to suspend driver's licences but there should in fact be an implication on professional licences. There should not be any way in which professionals can continue to practise in this province, not living up to their responsibilities in their homes.

**Mr Ramsay:** Ms Fox, thank you very much for making a presentation. I'd like to continue with the comment Mr Klees made. I'd be prepared to support you if you want to move an amendment right now because I agree, that's exactly what we should do, and I hope Mr Guzzo would be with me also. If you really want to stop the self-employed professionals, and we've heard a



number of their ex-spouses coming before us, we should be able to suspend their professional licences also.

I would be prepared to move an amendment on Monday for that, and I see now that maybe at least one government member would support me. I hope the government members would think about that, that the staff would pass that on to the Attorney General and that he would think about that so we could give some serious consideration to that. I'm sorry, but guys like your ex-partner are getting away with it, and they know more than anyone else how to do it. He's got the education and the training. He's paid to do that for other people.

**Ms Fox:** Worse yet, he's teaching others how to do it now.

**Mr Ramsay:** That's right, and I think —

**Mr Guzzo:** Ninety percent of his billings are coming from us, the legal aid plan. If he's doing criminal law, guaranteed: 90% of his billings are coming from the legal aid plan.

**Ms Fox:** He doesn't take legal aid, I don't think, so they couldn't zap it.

**Mr Ramsay:** I think this is important, and I would hope that all members of the committee would think about this over the weekend and that we could maybe come together on this. It might just send enough shock waves through the system that ex-partners such as yours would stop this abuse.

**Ms Fox:** That would be exciting.

**The Chair:** Ms Fox, thank you for assisting this committee in its deliberations.

**Ms Fox:** Thank you for this opportunity. I hope I never have to do it again.

**The Chair:** Melody-Lynn Corchis? I understand she may not be present.

#### DENISE ASHBY JUDITH KILLORAN

**The Chair:** We'll proceed to Denise Ashby and Judith Killoran. Welcome. You have provided us with a written submission, which the committee has. I'd ask you to proceed.

**Ms Denise Ashby:** I'd like to thank the Chair and the clerk of the committee, Mr Arnott, and the committee for permitting us this opportunity to speak to you. We are here today to raise our concerns regarding the proposed legislation to restructure the family support plan. We are both lawyers who have had personal experience with the family support plan, or FSP.

The family support plan was introduced as a successor to SCOE, as I'm sure you're all aware. The FSP required that all orders for support be registered with the plan. It was, therefore, a universal enforcement program. It was intended to remove the stigma of garnishment orders against a payor's wages. It was hoped by many of us that eventually support payments would become just another deduction, not unlike CPP. The opting-out provisions in Bill 82 destroy any opportunity for uniform and consistent enforcement of support orders, which surely all children are entitled to.

The thrust of our submission is to focus on the illusory nature of the positive aspects of Bill 82. Many of the new

provisions would require an increased allocation of resources to ensure effective implementation.

We are confident that the statistics available a year following the passage of this bill may indicate a significant improvement in the percentage of cases defined as "in compliance" and as having "funds flowing on a regular basis." However, that percentage increase will be nothing more than a numbers game. It will not represent more money in the hands of children and their mothers, as the gains will have been achieved by the directors or some agent exercising his or her discretion to close unenforceable files and the use of the opting-out provisions.

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Similarly, it is illusory to expand the definition of an income source if there is no adequate enforcement process to ensure that the new definition is applied to fathers in arrears. The recent 40% reduction in FSP staffing is the real amendment to the enforcement process, which will have the most profound consequences on the flow of funds to mothers and children. The proof is in the débâcle of the past four months, which has been reported on a daily basis by members of the opposition parties and has consistently been denied by the government of the day. The government has successfully created a crisis and we expect will remain committed to sustaining that crisis.

Its strategy will result in massive numbers of mothers succumbing to pressure from their former spouses to opt out on the pretence that the system is broken and they should trust their former spouses. We have seen what that history of trust has accomplished in the past: child poverty.

**Ms Judith Killoran:** I'd like to deal with some of the enforcement issues. The first is that of resources. Every attempt has been made to remove the human face from this issue. The best example of this is the removal of counter service throughout the province. In this way, files remain a collection of documents and the dehumanizing aspects of a bureaucracy minimize the pain and suffering of the women and children who are the victims of support arrears.

Recipients were sent pamphlets extolling the improvements in the system and the ease with which the system could be accessed. It was touted as a new, user-friendly FSP. In reality, the numbers were the same old numbers and it was even more difficult to obtain information and personal assistance was not available.

It was not until the Kormos-Martel tapes that the reasons for the crisis became apparent. There was no staff to reach. The files were in disarray. The images of the most intimate personal information of the lives of Ontario residents in cheap packing boxes was shocking. It is an indication of the real agenda that this legislation seeks to serve.

In light of the decision to reduce staff by such an extraordinary degree, it is outrageous to suggest that payors in arrears will have their driving licence suspended, assets sheltered by a third party attached, support orders registered against personal property, garnishment of joint bank accounts, lottery winnings intercepted and credit bureaus informed. Such amendments are meaning-

less in the face of gutted resources. All those amendments, on the face, sound like wonderful improvements. If there's no method to enforce, they mean nothing, they're nothing but words on paper.

The second issue is so-called impractical enforcement. This bill proposes to lump a large number of files under the heading "impractical enforcement" and allow the director or some assigned agent to refuse to register an order or to close a file wherever it is unreasonable or impractical to enforce. Those files affected are where the meaning of the order is ambiguous; where the amount is nominal; where there are long-standing arrears; where the payor's location is unknown; or the payor is incarcerated for five years or longer.

The ability to define as "unenforceable" orders which are deemed ambiguous or nominal will sacrifice many historical orders which do not fit the new requirements. What you may consider nominal is not nominal for many children in this province. Many women who hope to benefit from the expanded income definition will be surprised when their files are closed because their order is deemed ambiguous or nominal.

Similarly, COLA clauses which are presently being enforced will not be enforced any longer if they do not meet the new drafting requirements of Bill 82.

Experience in family law teaches one that persistence is everything. A payor's circumstances change. It is foolhardy to write off a father in arrears as a bad debt. It is morally offensive that parents who have successfully evaded their obligations would be rewarded for their efforts, and that is what this bill is proposing to do.

The third issue is that of assignment of the director's powers. Again, the government's spin doctors suggest that this is a positive element, permitting the delegation of collections to experts in the private sector. Although it may be personally satisfying to picture deadbeat dads being pursued by collection agencies, the assignment of powers provisions are somewhat horrifying in their implications.

Subsection 4(2) provides that such an assignment, "may include powers, duties or functions that are not purely administrative in nature, including statutory powers of decision and discretionary powers given to the director under this act, and may provide that an assignee may be a party in any action or proceeding instead of the director."

This provision would permit the so-called private sector experts to determine what orders of our courts are impractical to enforce. This is a clear abdication of responsibility on the part of the government. It erodes the statutory and procedural protections afforded to the citizens of Ontario; in this case, its most vulnerable citizens, its children. It is reprehensible that those who would profit from enforcing only the easy cases while divesting themselves of the labour- and thought-intensive cases could determine which files should be closed, not the director.

The government should have, as its motivation, the enforcement of children's rights to support and not private sector profit margins. Clearly this government prefers the business interests of the private sector to the

needs of the province's children, who should benefit from support orders.

This is just a brief overview of the most glaring flaws evident in Bill 82. We believe that the present bill requires substantial amendments and a commitment by the government to the proper allocation of resources to the plan to ensure enforcement of support orders.

We particularly object to the hoax which is being perpetrated on the province which suggests that this bill will guarantee new, improved enforcement procedures. Our analysis leads us to a contrary result.

In summary, we urge this committee and the Legislature to remove the assignment of powers and the opting out and discretionary closure of files provisions. Thank you.

**The Chair:** We have approximately three minutes per caucus. Mr Tilson.

**Mr Tilson:** Thank you very much for coming and offering your suggestions with respect to the bill. One of the options which you have felt very strongly about, as have members of the opposition, in particular the New Democrat caucus, is the issue of opting out. I gather you both practise family law?

**Ms Ashby:** No.

**Ms Killoran:** We have at various times.

**Mr Tilson:** Okay. I can say to you that I have talked to not just constituents but members of the bar who practise family law and they have told me that, yes, there are a number of deadbeat dads, there are a number of people who have a complete disregard for their obligations to support their ex-wives and their children, but there are a number out there who have worked out their arrangements, the husband and the wife have worked out their arrangements. They have an amicable arrangement for the payment of funds, one has custody, one has access. There's no question we hear some bad stories, but they've all said that they don't want the government to interfere in their lives.

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I've spoken to lawyers who have had a complete dissatisfaction with the existing system because in fact they say if they had a separation agreement with certain provisions in the separation agreement and no order dealing with that, they could garnishee wages just like that, whereas the existing plan — well, you smiled, but I'm just telling you what lawyers have told me and that they have in fact done it.

**Ms Ashby:** I'd like to have their names.

**Mr Tilson:** I'm not going to give you names here; I'll give you names privately. But there's no question that they have done that, whereas the system isn't as successful. The parties in small communities feel that it's very important that they retain their privacy. I don't know where you are solicitors, but I can tell you that in the small communities matrimonial dissolutions, for the husbands, for the wives, for the children, are very difficult things in those communities. Many of them, if they work out their differences, don't want the employers to know certain things about them. My point is that these constituents and lawyers have told me they don't want to be part of the system, that they can handle things themselves. Could you respond to that?



**Ms Ashby:** Yes, I'd like to very much. I had the privilege of practising in small-town Ontario, and my experience is quite different than that which you expressed. I think it's apparent that the family support plan has had problems, and certainly SCOE, its antecedent, had problems. I'm not denying that. What I am suggesting is that universality has a place; that the type of stigma that you are suggesting exists becomes less a stigma as time goes on and just becomes a natural fact of life. You separate, you go to court, you get a support order and it gets registered. You start your payments, it's deducted.

**The Chair:** Excuse me, thank you. We've got to move to the next caucus.

**Mr Crozier:** Thank you, Chair, and good afternoon. I understand what you're commenting to with regard to Mr Tilson. Most often I agree with Mr Tilson, but I have lived in a small town for more years than I'd like to think, and I think that's so much baloney. Small-town divorces are just as amicable. They are also just as — pardon me?

**Ms Ashby:** Fractious.

**Mr Crozier:** — fractious as they are in the big city. The problems are the same. The stigma? If anything, I think the stigma isn't there as it used to be. Unfortunately, divorce is a fact of life today. I know many divorced couples in our small town, and they continue to live in the same community. The fact that we're any different in a small town than in a large town, I beg to differ on.

We don't have much time, so if you would like to make any further comment on the assignment of director's powers — you've covered it very well. That's a part of the bill that I'm uncomfortable with, when the government begins to move towards what I call, and perhaps you did in here, abdicating its responsibility.

**Ms Ashby:** I suggest that this committee is the administration of justice committee. I believe that this section is a total erosion and reflects badly on the administration of justice and the access to justice. To think that some head of a bill-collecting firm could decide that a child has no rights to their support, I think is anathema.

**The Chair:** Thank you, Mr Crozier. Ms Martel?

**Ms Martel:** I'll start. Actually, I don't have questions; my colleagues do. I want to thank you for raising the fact of the resources, because in my second reading debate on this piece of legislation, there were some who took offence when I said that the government is holding out false promise to people about what the measures will achieve.

We agree with the enforcement measures, but the measures may not work when people realize that the family support plan has been cut by 35% and 290 experienced staff are laid off and you have the awful situation right now where you have staff who are just being hired, who are just being trained, who will take months to be trained. You have the fact that the Downsview office is not anywhere near up and operating and won't be, and you have the additional problem that the computer system and the technology that these enforcement mechanisms rely on has just gone out to tender, and it will be months and months and months before it will be up and running and people will be trained on it.

I found that really offensive, that the government suggested we get this legislation done and over with so people could get money when in fact people who have waited a long time are going to wait a whole hell of a lot longer before some of these provisions can even go into effect because of the cuts the government has already made.

**Ms Killoran:** That reinforces our opinion that the crisis has been created by the government and that it's being perpetuated by the government and it will be perpetuated for some time now with the hope that more and more people will opt out of a system that they see as being broken.

**The Chair:** You have one minute.

**Mrs Boyd:** That's better than none. You certainly state that very powerfully, and your argument around the administration of justice and the assignment of powers, that's the first time we've heard it from that angle. It's very helpful for us to hear about it from that angle, because that is in fact what this bill allows to be done. It says that a judge makes an order but someone else gets to say whether or not that order will be honoured.

**Ms Killoran:** We're talking about increasing the discretionary powers that are initially vested in the director. The director can then turn around and pass on those broader powers to someone else, a bill collection agency, for example. A bill collection agency could decide that the amount is nominal.

**Mrs Boyd:** That's right.

**Ms Killoran:** It may not be nominal in anyone else's eyes.

**Ms Ashby:** A \$5,000-a-month support order or \$1,000-a-month support order, where is their bottom line going to be? In a cost-effective way when you do your cost-benefit analysis, what's a businessperson going to do? A businessperson could say: "Hey, \$1,000 a month? I'm not going to pay 12 grand to go after this guy."

**The Chair:** Thank you very much for your presentation here today.

**Ms Ashby:** Thank you very much to the committee for hearing us.

**The Chair:** I'll call Melody-Lynn Corchis. No?

#### LESLIE HUTCHINSON-WESTLOCK

**The Chair:** We are now proceeding to our 5:50 appointment, Leslie Hutchinson-Westlock. Welcome. Did you have a written presentation?

**Ms Leslie Hutchinson-Westlock:** No, I don't. No paperwork this time. You can relax.

**The Chair:** I was just asking because I had a number of them here. Please proceed. You have 20 minutes.

**Ms Hutchinson-Westlock:** I just want to be brief. I'm a Canadian citizen. I've lived in the United States for the last 23 years, and through going through a divorce, I have moved back to Canada. I'm happy to be back and getting to know my country again. I have been very concerned about the new bill and so on, and I have familiarized myself with it.

First of all, as I go around the table, every one of you knows somebody who has been involved with a deadbeat parent. It could be a sister, a mother, cousin, employee,

various people. But you really don't know what it's like. You can sympathize with these people, but you have no idea what it's like. I never had an idea of what it was like until I went through it. You don't know what it's like to go through it.

You don't know from one day to the next, especially with women, because it happens to a majority of women. Some women are a lot stronger than other women, just like some men are a lot stronger than other men. You've got to be very tenacious. You've just got to stick with it. In the old days and up till just recently, it was always swept under the table, "Oh, they'll get on with it," nobody really got involved. Today we're getting involved. Why we're getting involved is because money talks, and this problem is escalating where parents are not even showing up for court, are defying court orders. If they show up for court, if they're self-employed they're saying that they're bankrupt.

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I would like to see aiding and abetting laws here for transfer of money. That happens all the time. It happens not only here, it happens everywhere in the world. It's so easy to say that you're bankrupt by just transferring money to a sister or a good friend. You can still operate a company and go on the payroll for \$300 a week.

In the old days, probably none of you will remember the old used car salesman and what a reputation that used car salesman had. Here in Toronto and here in Ontario we had to bring in laws and enforce those laws to get rid of those used car salesmen. So to me the used car salesman of the 1950s has become the deadbeat dad or deadbeat parent of the 1990s. It's the same thing.

**Mr Guzzo:** I thought you were going to say politicians of the 1990s.

**Ms Hutchinson-Westlock:** Not yet.

**Mr Guzzo:** Give us a chance. We're working on it.

**Ms Hutchinson-Westlock:** We still make jokes about the used car salesman today, and I relate that to the deadbeat parent of today. It's the same thing.

The only way we can do it is bring in enforcement laws and tighten them up and take away licences, professional licences too, because the taxpayers cannot, quite frankly, afford it any more. There's no way. You read the newspapers every day. Sure, inflation's stable, interest rates are down and so on, but the average person is not seeing the same net income as they used to see. That does make a big difference, especially if you're a single mother.

It's funny how life leads you from one path to another, but anyway I'm a very good friend of Marilyn Nichols of deadbeat dad fame. I met Marilyn Nichols before I decided to serve my husband with papers for a divorce. I must say that Marilyn was a great inspiration, I think, to the world of women in this situation. There's no question. She was very tenacious and she has been a force. She's very strong, very articulate, a very nice person. Anyway, Marilyn has been referring me because there's no place for women to go, or men, so we do it sort of networking.

Every night I am on the phone, I am getting calls all across Canada, all across the United States, trying to find out what group, who can help us. "I have no money to

pay for a lawyer. My husband has decided to go bankrupt and he's refusing to pay child support. I'm sitting in a house that's for sale because the bank has foreclosed. Where do I go? Leslie, can you help me?" I'm trying to help these people by networking to somebody who can help them.

In fact, even in New York City there is a group I got to know. There's a coalition that is trying to change legislation there, and they have this group called The Sanctuary, and I think it's very good, whereby a group of women have gotten together and have gotten a lot of lawyers involved where they'll do some pro bono work. That's helping a lot and that's something I would like to get started here, because I really believe if a lawyer can be justified legal fees of \$300 an hour — I don't care if he makes \$300 or \$500 — in order to justify those fees, why don't we have him or her take two cases a year pro bono? I think that would be a big help.

I've just made a few notes here. I'm coming from the behaviour aspect. I want this behaviour to change where-by when somebody's getting a divorce and they're giving their spouse or their children a heck of a bad time, I want their peers, their neighbours, their business associates to say: "That's got to stop. We do not want that behaviour. That behaviour is condemned. It's not like it used to be in the old days."

Our society is changing and I must say, with children, when they see their deadbeat parent is getting away without paying and not even being thrown in jail, so to speak, they figure he must be an okay guy. I hope they would think that way, but they must say, "Society really doesn't condemn these people." Again, I would like to have those attitudes changed.

Just another note. As I said, I'm very familiar with the new Bill 82 and I think it's a beginning. I think there's a lot more to be involved with, but you've got to start somewhere and we've got to move on it. We're living in a democracy, so I would like to feel that if somebody wanted to opt out of the plan they can, and I feel very strongly about that.

Basically again I'm going through this. It's very difficult on women. As I said earlier, I have women calling me and these women say to me: "You know, Leslie, I can't even get out of bed. I don't know how I'm going to face the day. I've got three kids I've got to look after. I've got debts. I have no food. I go to the bathroom and I just throw up. Every morning I just throw up and throw up." That's hard, that's very hard, not only on the woman, but it's hard on kids, it really is. Because they feel maybe they caused it or "What can I do?" and that's a lot of pressure on a kid when he or she's going to school.

I feel very strongly about Bill 82. It's time to move on into the 1990s and have some sort of proper attitudes towards this case. As you know, every day it has become a very hot issue because every time you pick up a newspaper it's always about family support. You turn on the TV, Oprah Winfrey's having a deadbeat father show again, or a mother show. It's a hot topic and I think while everybody's talking about it it's time to move on it. I feel society is now being educated and willing to move on it.

Basically, that's all I have to say.



**The Chair:** Thank you very much. We have two minutes per caucus.

**Mr Ramsay:** Leslie, thank you very much for making your presentation. It was great and very informative. I wanted to ask you, because I agree with you about the opting-out provisions, but then as I think more and more about it I'm wondering, what about a woman who had suffered from physical abuse in the past?

**Ms Hutchinson-Westlock:** I can relate to that. Oh, there is a gal here who spoke earlier who felt very threatened. I think in certain cases, yes, but every case is different. You can't just uniform every case. What she was saying about herself, I agree. I'm a battered wife too. It's hard to believe. It was hard for me to believe this young lady over here. As I say, you don't know until you've been there. You don't know it.

**Mr Ramsay:** That's what I'm getting at, so that we'd still have an opting-out provision but then you would say except for people where there has been a known history, a documented history of abuse as a protection to that woman in case there is some coercion going on at this time. I'm just wondering about a safety measure there.

**Ms Hutchinson-Westlock:** Well, yes, I think there definitely has to be a safety measure. There's no question. I worry about my case. Right now, I have nothing. My husband has defied all court orders. He hasn't shown up for court, nothing. I don't worry about my safety now, but I'm going to worry about when I get the money and when I get him. I'm like the RCMP; I always get my man.

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**Mr Peter Kormos (Welland-Thorold):** Thank you kindly for your comments. I want to speak to this business of opting out too. I hear what you say, and other people have said the same or similar things. Mr Tilson referred to it just a few moments ago. It seems to me, though, that in situations where there truly is that high level of cooperation, there isn't a court order or maybe not even a separation agreement, because there is the high level of cooperation. People have made their own arrangements. They wouldn't even come close to the family support plan, in any event.

**Ms Hutchinson-Westlock:** Yes, but those are so unusual.

**Mr Kormos:** Exactly. I don't have data, but —

**Ms Hutchinson-Westlock:** They are unusual. Look, you've heard of divorces where two people didn't even use a lawyer; they just sat down, "You take this and I'll take that and so long," but those are very, very unusual.

**Mr Kormos:** I agree, which is what —

**Ms Hutchinson-Westlock:** But when it comes to abuse, then that's a different story.

**Mr Kormos:** Also, what about the phenomenon, because it seems to me that this happens in more than a few marriage breakdowns, you go through stages and there seem to be patterns, not always the same, but one stage is, "Oh, you can have anything you want." The next —

**Ms Hutchinson-Westlock:** That's because the one who wants out probably feels guilty because they've been running around.

**Mr Kormos:** But at the end of the day, when all is said and done, people circle their wagons and, all of a sudden, become far less cooperative than they might have been.

**Ms Hutchinson-Westlock:** That's because they get with the lawyers and the lawyers say, "Hey, look" — you know how many lawyers are not making a buck today, who are going out of business? There are plenty of them.

**Mr Ron Johnson (Brantford):** You're talking to one of them.

**Ms Hutchinson-Westlock:** You should know. There are plenty of them.

**Mr Kormos:** I don't earn a penny practising law.

**Ms Hutchinson-Westlock:** You know what? I'm amazed today that lawyers will take these deadbeat father cases such as my husband. They know this guy is a creep and everything else, but they'll do it because of the almighty dollar.

**Mr Kormos:** But then why shouldn't people, the minute there's a court order —

**Ms Hutchinson-Westlock:** I know the flip edge of it too.

**Mr Kormos:** Hold on. Why shouldn't people, the minute there's a court order, get into the system of processing the money from the payor to the payee so that everybody's on a level playing field, everybody's on an even plane?

**Ms Hutchinson-Westlock:** No, as I say, and everything is different, I think it should be ones who opt out — if two people get along, why do they need to go through this other stupid system?

**Mr Kormos:** I'm worried that things change six months down the road.

**Ms Hutchinson-Westlock:** Then they should be able to get back into it. Yes, that's simple enough.

**Mr Kormos:** You've got a bill here that contemplates charging fees for people to get back into the system.

**Ms Hutchinson-Westlock:** They're charging fees?

**Mr Kormos:** Yes.

**Ms Hutchinson-Westlock:** Well, all right, you know what? Our main issue is passing this Bill 82 and then we can worry about that other stuff and it'll all come together anyway. It's basically there, but you can fine-tune it.

**Mr Kormos:** That's why we're glad you're here. We've got to fine-tune it now.

**Ms Hutchinson-Westlock:** But I think —

*Interjections.*

**The Chair:** Order. I can't hear what's going on.

**Ms Hutchinson-Westlock:** — you've got to make it a little broad rather than be precise. I think you've got to leave a little —

**Mr Kormos:** Leeway.

**Ms Hutchinson-Westlock:** Leeway, absolutely.

**The Chair:** Thank you very much, Mr Kormos. We'll now move to the government caucus and we have Mr Guzzo and Mr Klees with whatever order you wish to take it in.

**Mr Guzzo:** I want to thank you too, Leslie, for coming in. I wanted to zero in on that pro bono group. I thought you had the first volunteer. I honestly thought Mr Kormos was going to be the first volunteer for that.

**Ms Hutchinson-Westlock:** I don't know. I thought he was sliding under the desk.

**Mr Guzzo:** No. I want to tell you, if you were successful in getting him — I've watched him in court and he is excellent, a very, very good —

**Ms Hutchinson-Westlock:** You would recommend him.

**The Chair:** Excuse me, Mr Guzzo. We have a point of order.

**Mr Kormos:** On a point of order, Mr Chair: In terms of what Mr Guzzo has raised, there's been so much interest as of late in how much money I earn practising law. Granted, my 1995 Chev pickup doesn't come free, but it's not an expensive car.

**The Chair:** Excuse me, Mr Kormos, that is not a proper point of order.

**Mr Kormos:** I really would rather people would pay more attention to their own personal —

**The Chair:** The point is taken. Mr Guzzo.

**Mr Guzzo:** I want to explain to you what happened. We used to have exactly that type of pro bono group here. It was called free legal aid, and then somebody around about 1969 or 1970 got the bright idea that the government would provide the legal aid. The lawyers no longer contributed free cases.

But what I want to zero in on — and I'm not suggesting that your idea is not worthwhile and I commend you for it. But when it comes to people in your case, women or men in that situation, I want to know why you are not arguing that they qualify for legal aid. My point is that tonight there will be 50 or 75 people picked up for anything from armed robbery to murder to rape who automatically tomorrow morning will qualify because they're criminal charges. Some of these people have never paid a nickel in taxes and never will pay a nickel in taxes.

In the case of the destitute mother, she has contributed to the tax bill and she will again in most cases, but we are denying legal aid. I want to know why you're not pounding home the idea that the legal aid money should be directed more to civil cases than to the criminal.

**Ms Martel:** So why doesn't your government do that?

**Mr Guzzo:** Because you gave the power to the law society.

**Ms Hutchinson-Westlock:** Correct me if I'm wrong, but I understand if you do decide to go with legal aid, you have to pay it back. Is that correct?

**Mr Guzzo:** Some do and some don't. Let me tell you, the people who are doing five and 10 years in Warkworth aren't paying it back, and the people with the immigration files who get deported don't pay it back.

**Ms Hutchinson-Westlock:** But I mean in family law cases.

**Mr Guzzo:** Some will and some won't. Anyway, Mr Kormos now wants to be number one on the pro bono list, and I want to highly commend him to you.

**Ms Hutchinson-Westlock:** Listen: I'm a great believer that you've got to give back to society.

**Mr Guzzo:** Peter agrees with that.

**Ms Hutchinson-Westlock:** For so many years we've taken. We've got to give back.

**The Chair:** Thank you very much for your presentation.

I'll call on Ms Corchis. No? Sandra Patterson? No?

TAMERA-LYNN BEAULIEU

**The Chair:** Then I call Tamera-Lynn Beaulieu. Welcome. I realize you're a bit early. Are you ready to proceed?

**Mrs Tamera-Lynn Beaulieu:** Sure. I'll tell you about my personal part of this and how it affected me.

In 1992 I received my divorce. At that time my ex-husband agreed to pay \$140 a month child support for all three of my children. This averaged out to \$46.66 a month per child.

In 1994 my ex-husband was either fired or quit his job. Even before he was unemployed he was already in arrears of his child support. He decided to take me to court to have the arrears of his child support erased. He was able to obtain legal aid to do so. I had to sign a lien on a home that my new husband and I had just purchased. By this time my ex-husband was over \$2,000 in arrears. The judge suspended the arrears and decreased the child support to \$100 a month, which was \$33.33 per child. The judge believed my ex-husband would not have been so far behind if he had paid the child support all along. The arrears were only to be suspended until my ex-husband obtained employment.

My ex-husband also wanted to be able to take the children out of the SD&G county region. He wanted to take them to places like Toronto's Wonderland and Santa's Workshop. We couldn't understand how he could afford to take the children to such places when he couldn't afford to pay \$140 a month support, and because he was on social assistance. Because of this last proceeding, my husband and I have a lien of over \$3,000 on our home. After that, my ex-husband returned to his old job. I received a couple of support payments shortly after, and then nothing. This year I have received three payments which total about \$250. My ex-husband is now \$4,311 in arrears.

I spoke not only to Mr Cleary's office but to the family support plan several times. It was then that the family support plan told me that they repeatedly sent forms to my ex-husband's employer, with no results. They also told me that they were unable to reach the employer by phone. My ex-husband and his lawyer are now saying that the child support was deducted from his pay and they believe the employer is withholding the support payments.

I notified the family support plan of this. A gentleman from the enforcement division of the family support plan called me and suggested that I call my ex-husband's employer. I found out that I could be charged with harassment for doing so. The family support plan is still unable to explain how my ex-husband has been able to become so far in arrears, nor are they able to do anything about it.

1750

**The Chair:** Thank you. I don't know whether you mentioned, is your ex-husband self-employed?

**Mrs Beaulieu:** No. He works for a courier service.



**The Chair:** We'll start with the third party, and we have approximately five minutes per caucus.

**Ms Martel:** Chair, there was also a written submission. I just wondered if the presenter wants to read that.

**Mrs Beaulieu:** I figured I would just leave this with everyone.

**Mr Tilson:** Mr Chairman, could I speak as the parliamentary assistant? I'm the parliamentary assistant for the Attorney General. Most of your presentation has been of a personal nature. For some of the deputants who have been coming with the type of problems you have had — it's unfortunate you've had to come to a hearing to do that. Nevertheless, I am prepared, if you wish — and if you don't wish, that's fine — to go outside the committee room with you and try and resolve some of those difficulties. Some members may still have questions, but if you don't wish to personalize it, because all this is on the public record, you don't have to do that. But if you have direct comments as far as the system or the proposed legislation are concerned, we'd be pleased to hear from you. I offer that to you at the end of the presentation; I could go outside with you.

**Mrs Beaulieu:** Okay.

**Ms Martel:** Thank you for your presentation here today, and I hope the parliamentary assistant is able to help you with your case.

Let me ask you a little about some of your comments which I've just read. Some of them touch on the bill itself and changes you'd like to see, and some have to do with the organization of the plan.

Point 8 particularly speaks to the ability of case workers to deal with the same people all the time. I assume you've had all kinds of problems where you've had to respond to questions you've already answered time and time again.

**Mrs Beaulieu:** Constantly.

**Ms Martel:** I wonder if you can describe what your experience has been in the last number of months. Certainly, while there was a problem before, that problem just got a whole heck of a lot worse in mid-August when the Ottawa office closed, and I assume you would have dealt with the Ottawa office if your member's in Cornwall.

**Mrs Beaulieu:** We have to call Toronto now to speak to people and you can never get the same person you were speaking to before. You're answering all the same things, you're always giving your number, you're always answering the same questions; they're always asking where your ex-husband worked and your address and they're not getting to the things that are important. It's wasting a lot of time.

**Ms Martel:** If you were to make a suggestion to the government about how they reorganize the family support plan, which is also what's under way along with this bill, it would be that there actually be case workers assigned to your case?

**Mrs Beaulieu:** To certain cities or to deal with certain cases, because there are a lot of cities it affects.

**Ms Martel:** That's not the plan right now. The Attorney General has decided that there won't be case workers and there won't be case files, and a number of us have said in terms of the reorganization that that's

probably going to be a problem, particularly where enforcement issues are very difficult to deal with.

**Mrs Beaulieu:** And it's very hard to get hold of the enforcement people. You have what I guess you'd call operators who take what's going on, but it takes ages to get hold of somebody who actually enforces it. That's another problem as well.

**Ms Martel:** Your other problem is that there's going to be 40% less staff in the office by the time the reorganization finishes, so how many people will be left to do enforcement is another concern we have. The bill, in terms of the enforcement mechanisms being put forward — the 10 changes that have been put forward are good ones, but they only are going to work if there is the staff there to make sure they go into effect. We have a concern that if you're operating with 40% less in a plan that was probably already understaffed, some of the important enforcement mechanisms the government talks about aren't going to be able to go into effect because there just aren't going to be the people to put them into place.

I assume you've read the bill. There are some changes around drivers' licences, credit agencies — I would assume that all of those things you agree with, you think those are good measures.

**Mrs Beaulieu:** Pretty good. For some people the driver's licence works, but for others it doesn't because those people don't care if they're working or not. If they're not working, they don't have to pay support, so they don't care.

**Ms Martel:** And they might drive without a driver's licence anyway because they don't care.

The bill also talks about fees that would be charged to both recipients and payors now, fees if you opt in and get in and get out of the plan on a repeat basis or fees for administrative items. They're not terribly clearly defined in the bill, but it talks about fees for getting photocopies etc. Do you think you should have to pay a fee —

**Mrs Beaulieu:** For photocopies and stuff? No. For in and out, if you're constantly back and forth, maybe, but I've been in it since 1992 and I haven't seen any results.

**Ms Martel:** The opting-out provision is another one that we have expressed some concerns about. The legislation will let people opt out of the plan and they can come in later, or a judge might have to get involved if there's some coercion. Do you have any comments about people's ability to either opt in or out of the plan and whether the plan should automatically be a plan for everyone who is filing?

**Mrs Beaulieu:** I think people should try to go with the plan, simply because if they don't they don't have a chance of enforcing the support to begin with. But there definitely needs to be something done so that it's enforced either way.

**Ms Martel:** Your concern would be that they should at least get some enforcement measures because outside they run the risk of not having that at all, or they run a risk of, as the bill shows, ending up back in court to try to get a judge to say that things should change.

**Mrs Beaulieu:** Right.

**The Chair:** We'll move to the Conservative caucus.



**Mr Klees:** Thank you for being here today. Could I ask when your problems with the family support plan started?

**Mrs Beaulieu:** I think it started at the beginning.

**Mr Klees:** And where was the beginning?

**Mrs Beaulieu:** In 1992.

**Mr Klees:** That was certainly long before this government.

**Mrs Beaulieu:** Yes, so it's not just now, it's problems from before.

**Mr Klees:** With the fact that we're discussing a bill to improve the family support plan, a bill introduced by this government, would you agree that that is a step in the right direction?

**Mrs Beaulieu:** Yes.

**Mr Klees:** I'd like to address an issue that was raised by a number of presenters to this committee, and that's the issue of attitude. Unfortunately, a lot of times in this committee or in this government we deal with symptoms. What we're trying to do with this legislation is really to try to patch up a problem that's developed in our society that is a symptom, a very difficult symptom to deal with. It's families, parents, not being willing to assume their responsibility with the children for whom they have responsibility.

One of the things we can do as individuals around this table, as the public has an opportunity as we go through this process to investigate seriously, is to challenge each other to go beneath the surface and ask ourselves: Why are we dealing with these symptoms today? What is it about attitudes that have been allowed to develop in this province that actually allow parents, be they fathers or mothers, to feel in good conscience that they can walk away from their responsibility to their children?

I introduced a bill in the House last week that deals with the issue of parental responsibility, albeit it's somewhat different; it deals with the issue of responsibility of parents when it comes to their medical treatment. But what I am surprised at is that we're spending a great deal of time — and rightfully so, we should be spending a great deal of time on this bill, dealing with how we can bring parents and mothers to the table to ensure that their children are looked after properly.

But there's something about the way government has brought legislation in over time that has been driven by the philosophy that the village is the family. I fundamentally disagree with that philosophy, because the village has become the family. The truth of the matter is that we are now at the point where, when individual parents refuse to be responsible, it falls on the village, it falls on the rest of the state, to provide the kind of support that individual parents should be providing.

I think we're reaping what we've sown over years. I think that governments of the past have sown the seeds that we're reaping today. The message of parental responsibility has been displaced by the state, and governments have felt in the past that it's much more important for the state to intervene rather than place obligations on individual parents.

I think this bill is a step in the right direction, and I think you agree, where once again we're bringing parents back into the equation and we're saying, "Hey, live up to

your responsibility." I as a member of this government am particularly proud of the fact that we are bringing this forward. I think there is some room for improvement and we'll be bringing some amendments forward, but I think it's a step in the right direction. I appreciate the struggles you're going through, and together we're going to do what we can over the next number of years to try to bring the focus of the family back to the forefront in this province.

**Mr Ramsay:** Thank you very much for making your presentation. I'm not going to preach to you. I just want to reassure you that all three parties are working very hard to bring this bill into law as soon as possible and we really appreciate people like you — I know how difficult it is — coming forward, because through these presentation we're developing some amendments to make it better. There seems to be good all-party cooperation in doing that, and by about Monday at 8 o'clock we should have the bill in its final form to be voted on later on next week. I very much appreciate your coming before us.

**The Chair:** Thank you, Ms Beaulieu. The committee realizes how difficult it is for persons such as yourself to bare your soul in public, but it is valuable to this committee, I can assure of that. Thank you for attending.

I believe we have reached a place where we have two persons who have not appeared. Our next presenter is Susan Irwin at 6:50, so I would adjourn until that time.

**Mr Ramsay:** But Mr Chair, Sandra Patterson — I don't know her, but just looking at the time — is not scheduled to come until 6:10, so what would happen if we now adjourned?

**The Chair:** Thank you very much, Mr Ramsay. You're right. We'll adjourn for 10 minutes and then we'll have to reassemble. We will adjourn till 6:15.

*The committee recessed from 1803 to 1811.*

**The Chair:** I see a quorum. Since the witness scheduled for 6:10 has not arrived, we are adjourning till 6:50.

*The committee recessed from 1811 to 1854.*

## SUSAN IRWIN

**The Chair:** I see a quorum, so I'll call this meeting to order. Our next presentation is by Susan Irwin. Welcome to these hearings. Ms Irwin has provided the clerk a written presentation, which has been distributed. Please proceed.

**Ms Susan Irwin:** Good evening. Just before I start — this is new for me and I'm nervous, so bear with me — I'm going to use "she" to refer to a recipient and "he" to refer to a payor, only because that is the typical scenario, not for any gender-biased reason. I just thought I would explain that.

I represent approximately 30 to 35 recipients under the family support plan from the Kitchener-Waterloo area. We recently started a group, some time in October, because we became aware that there were many recipients who had been getting their support regularly and were running into problems and not receiving it, and this was causing some problems.

We have been meeting over the last several months and discussing this proposed legislation. I personally have been a recipient under first SCOE and now the FSP, and



I guess soon under this family responsibility act, since 1989. I am also a graduate student in social work at Wilfrid Laurier University.

While I and the recipients I represent support an overhaul to the existing family support plan and recognize the problems that have existed over the last number of years, we have some concerns with this new, proposed legislation. Many of the changes that are in this legislation are excellent changes, long overdue, and they will go a long way towards alleviating some of the stress of single parents who have a problem maintaining expenses for their children. We're also hoping that they will have some teeth for those parents who have struggled over the last number of years, not having received any support, and who have amassed large sums of arrears. These people have gone through undue hardship and a lot of stress and deserve a lot of credit for raising their children on their own, and we are hoping that these women will get their money.

The concerns that we have deal mainly with three areas. One is the director's ability to refuse to enforce an order for various reasons, and that deals with section 7; another is the ability to close files and to wipe out arrears; and the third one is to allow the parties to opt out of the plan.

Section 7 deals with the director being able to "refuse to enforce an order...if, in his or her opinion,..." and then there's a set of different circumstances. The first one deals with the amount of the order being nominal. I'm not quite sure what that means, and I'm not sure whether there are any other guidelines that direct the director to decide what nominal is, but I would want to know that nominal is determined somehow.

To somebody making \$40,000 a year and sitting in a salaried job, nominal may be \$200 a month. To a single parent who has no other source of income, an order for \$25 a month may mean the difference between her child having hot dog days and pizza days at school or going on a school trip, so I want to be really sure that somebody making that decision is going to know what "nominal" means, not only to him but to that recipient, and I would hope that the recipient would have some feedback. If an order is made for \$1 a month, we could all argue that it is a waste of money to enforce that order. On the other hand, I don't understand why a judge would make an order for \$1 a month, but I have heard that there are some out there.

The meaning of the order being unclear or ambiguous: While I recognize the problems in enforcing an unclear or ambiguous order, I also really feel that it is not the recipient's fault that the order is ambiguous or unclear. I'm not sure what the solution is, but obviously two lawyers and a judge were involved in that order being made and for it to be unclear or ambiguous is not serving the needs of that recipient. Whether there is some way that the FSP, or whatever the new body will be, can — maybe they can call both offices and say, "What do you understand this to mean?" and "What do you understand it to mean?" and if there's agreement upon what it means, go ahead and enforce it. If there isn't agreement, then it goes back. I just want to be sure that because it's unclear to the person who is supposed to enforce it, it's not put

on a shelf and sent back. The recipient has paid a lot of money to get this order and really needs it to be enforced in a timely fashion.

The one that really bothers me the most is being able to close a file with arrears of long standing. I never got on-time, full support until the support deduction orders came into effect. I just can't tell you what a relief and how wonderful it is to know that on the first of every month — or to have known previously, up to the last four months — my money is going to come, that it is being deducted off somebody's wages and that it's coming to me.

1900

Those women who have not had the privilege of experiencing that type of system and who have struggled and coped and borrowed money and extended their credit cards and done whatever they can to scrape by, and probably have debts to every person they know, I really worry that somebody's going to come in and say: "This file has been open for six years. We haven't been able to collect. Let's trash it. Let's get rid of it."

That is the one that bothers me the most, that somebody would have the ability to do that. I wouldn't have gone back to graduate school not knowing that I was going to be getting my money. I think that people who have put off doing things and put off being able to afford things and put off making decisions because they don't have a regular cash flow want to know that some day they will get that money, even if their kids are 18 or 20. Maybe they can use it for university. Just because the kids are grown and everybody has survived, there's still been great hardship there.

The money needs to come even just as — I think you encourage further anger when you say to somebody, "Now that they're grown and Mom survived, there's no need to pay." I think we have to be really aware of the struggles that have gone on. That money was owed, that money was court-ordered by a judge and that money needs to be paid, if at all possible, whether it's 10 or 20 years from now.

The whereabouts of the payor or the recipient cannot be determined after reasonable efforts have been made: Is there somewhere that says what "reasonable efforts" are? You go to the guy's house four times and somebody says he doesn't live there, which is fairly common practice. Is that the end of it? I don't work there, I don't know what the process is, but again it's a court-ordered thing. The guy showed up in court. Somebody found him to go to court, so somehow somebody can find him to pay.

That reason sounds very simple to me and there may be much more teeth behind it. There may be a policy set out that determines reasonable efforts. I don't know.

The payor is receiving benefits under the FBA or GWA and has no assets or income, so you close the file. What happens when he gets off welfare? What happens two months from now when he gets a job? If you've closed the file, how will you know that? How will the recipient know that? Is that the end of it? The file gets closed because he's on welfare or because he has no assets and it's shelved. Does anybody check up on him three months from now, six months from now? I think that needs to be detailed. If that is left in there, is that an



opening to a payor to make some agreement with somebody to be laid off, to go on welfare, to have his file closed and then go back to work three months later? I don't know. I'm just throwing that out.

We all know the great efforts that are made to dodge child support, so I want to make sure there are no loopholes here, that there are no openings for somebody to dodge the system, as we have seen that there are some experts out there who know how to do this very well.

Enforcement of the order is otherwise unreasonable or impractical: I don't know what that means. I want to be sure that somebody else knows what that means, that the people enforcing the orders at the plan know what "impractical" or "unreasonable" is.

My whole point in this whole section is I would like to know that the recipient has some involvement in this process. If it's my file, I want to know what's going on. I've had two calls from somebody at the plan in eight years. In eight years, I have spoken to live people on two occasions. One of them was to call and tell me that they had got this new, wonderful information. Lo and behold, I was the one who sent it to them.

That was my one contact, and my other contact was I moved to Waterloo in September to go to school and I called my local MPP. Not knowing how to get hold of anybody at the plan myself, I said, "Could you somehow tell them that I have moved and that I want my bank account changed?" I knew all the offices had been closed. I didn't have any number for a new one. I heard it wasn't open, so I didn't want to fax something to an unopened office. This message got through and a week later somebody called me and said, "Well, don't you know you just have to fill out the form?" I said: "But, how would I get the form? How do I call and speak to somebody to get the form? It's not possible to get hold of anybody. I don't know how to communicate that."

I forget why I was making that point. Anyway, I want to be clear that the recipient should have some input into this whole process and should be able to say, "Yes, I agree, it's time to close my file," or, "Have you tried this or have you tried that?" or "If you close my file, what are my options? Where can I go from here?" and be able to receive some feedback from somebody who's knowledgeable and is going to tell them what their other avenues are now and where they can go.

I'm assuming that in all of these cases a judge has made these orders. A judge obviously is an educated person who, at the time when this was worked out, deemed this money payable, reasonable and collectible or he or she would not have made the order.

Usually these orders have been obtained at great cost. I know I've paid over \$10,000 in legal fees and I've been to court numerous times and represented myself to save money. I can imagine what my costs would have been if I hadn't done that. I think people pay good money and hire what they believe is good expertise in order to get an enforceable order. Great care has to be taken before these files are closed or wiped out.

Subsection 7(3) says, "If the director refuses to enforce an order...it shall be deemed to be withdrawn from the director's office on the date set out in the notice." Does that mean that I'm going to get a piece of paper in the

mail that says "Your file is closed," and that's the first I'm going to hear about it, or will I be involved in this process? Will I know in advance that, say, 30 or 60 days from now, if this doesn't happen, my file will be closed? Will I then be able to make preparations to go some other route or to do something else?

Personally, I would like some notice that this is going to happen so I can make other arrangements, even if it's to call somebody and say, "Listen, I'm not going to be getting my support for a little while can I borrow some money?" "It's just to have some plan in place."

The withdrawal of orders: I can see why somebody would propose to withdraw orders that are functioning, being paid and all the rest of it. If the money is coming in and it's being paid out and there appears to be no problem, why should we not let those parties opt out?

On the one hand, I say if the money is coming in — it's all being done electronically — it's being deposited, it's being paid out, then nobody's working in the file anyway. So what added pressure is it to the system other than a couple of seconds on punching something in and it going out?

While I can see why one might get rid of 25% of the caseload that doesn't need to be there, my other point is, in my own circumstances, I did not get paid regularly until it was deducted automatically, and now I do. We don't know what will happen if those people are allowed to opt out. We're really not clear on what will happen, but statistics show that people do not pay unless they're forced to do so.

The National Council of Welfare, in a 1990 publication entitled *Women and Poverty Revisited*, provides the following information: "Among mothers with dependent children, only 58% had obtained a support order for their children. The other 42% bore the burden of bringing up their children all by themselves."

We don't know why that 42% of women did not go and obtain an order. We don't know whether there was persuasion there, whether there were threats. We don't know that, and I think until we do know that, until we know why some women do not go and obtain an order — whether it's through fear, whether they make a private arrangement — I think we need to be careful about agreeing that people can opt out. Because if somebody's being persuaded — I don't just use fear of violence as the only form of persuasion; there are many forms of coercion and persuasion.

I think for a woman to be relying on a monthly payment to support her two children puts her in an extremely vulnerable position to be persuaded, to be coerced into going along with what the payor is proposing. This is the person who holds the power, the control and all the cards.

#### 1910

There's an onus on me to be agreeable, to be amenable, in order to make things happen. But if I agree to opt out and I then don't get my money, what happens? First of all, how do I get hold of anybody to tell them that I'm having a problem? Second, what is the mechanism for me getting back into the program? How do I do that? How long does it take?



If I had a support deduction order and the company has been contacted and told they don't have to deduct any more, do I then have to go back to court — I'm assuming I would have to — and get a new support deduction order, which is going to take time and cost me money? What happens to my children during that three or four months that I wait to go through that process and the money that I spend? I don't know how that process works, but I'm concerned about how it will work. I'd like there to be clarity about how that will work.

I really support the driver's licence suspension. I'm very pleased to see that that has come about. It's long overdue. There are states in the United States that have this in place, and it apparently is to be a good deterrent. However, there's one clause in there, clause 38(1)(e), that allows the reinstatement of a payor's suspended driver's licence upon withdrawal of the order from the plan. I believe it says as per section 16, which is the one that says if the parties sign a piece of paper and mail it in or fax it in, the file is out.

That concerns me deeply because if I'm a woman with two young children and my ex-partner comes to me and knocks on my door and says: "Listen, I know I haven't been paying. I really screwed up. I'm going to do better now. I know I owe you \$14,000, but this family support plan is on my case. They're calling my work. I'm going to lose my job. They're calling the credit company on me. Nobody's going to give me any money. I'm not going to be able to pay you. But if you sign this piece of paper and we opt out of the plan, I promise I'll pay you. I'll give you \$1,200 a month. I'll give you \$400 more than you're supposed to get, and we'll be caught up and I'll pay you."

Here's a woman who now is not getting her money, hasn't got her money, truly believes that through these teeth or hooks the family support plan now has into her ex-partner that his hands are tied and he cannot pay, that he's going to lose his job because the family support plan is calling his place of employment and his credit rating is going down. If that was me, I would probably agree to opt out, but I don't think it's a good idea. If that ability is not there for the payor to even go to that person and say, "This is a possibility," I'd feel more comfortable with that. I think that to set a recipient up for that pressure and to have to make that decision is not fair.

You have to remember that if a person is not receiving their support, they're emotionally stressed, they're desperate. People do irrational things when they're desperate, and I think we want to remove the possibility of any irrational actions from this legislation. To me, that may be one, that a payor may be able to influence somebody under that situation.

Before we had the support deduction orders in place — I don't recall where I got this statistic, but I read it several different places — less than 5% of non-custodial parents voluntarily paid support. I don't think we should dwell on the past, but I don't think we should forget the past. I think that when we're making these changes, we have to remember how it was before. We've come a long way and we've got some good changes in here, but we cannot forget why this plan was established, what it is here to do and who it is here to serve.

We have had evidence in the past that non-custodial parents do not pay unless they have to. I think the support deduction order is wonderful; it removes the whole aspect of paying out of the relationship. When I exchange my child with my ex-partner, it is so much nicer not to have a cheque in the middle of us, not to have to talk about him paying me every single month. It's paid some other way. It comes off his cheque, it goes into my bank account, it's not in the interaction any more and it's so much nicer not to have that there in the middle of what is already a difficult situation.

I feel very strongly that this opting out perhaps will not gain a whole lot for the plan, because if those people are paying, it's not causing any work on the file anyway, and I think it could have some fairly severe repercussions, not to everybody but to a portion of recipients out there.

I hope you'll consider these concerns. They're given in good faith. I've been a recipient for many years now. I've been through all of these changes. I'm very happy to see this piece of legislation, but I do have those concerns. The people of Kitchener-Waterloo would like you to consider these aspects in passing the legislation. Thank you.

**The Chair:** Thank you. You've done very well this evening, Ms Irwin, and you've used exactly the 20 minutes allotted to you, which does not permit any time for questions. But it was an excellent presentation, and I thank you on behalf of the committee.

JENNY MCKAY

**The Chair:** Our next presentation is Jenny McKay. Good evening, Ms McKay. I'd ask you to proceed with your presentation.

**Ms Jenny McKay:** Actually, what I've got to present is kind of a continuation of what Susan said; we're from the same area. I just received my diploma as a social services worker, and I've done a lot of volunteer work in second-stage housing and with women's groups. What I've brought are some case scenarios to further make our point.

When it comes to not opening a file or closing it at the director's discretion, many of the women in our group in Kitchener-Waterloo and the women I've known in the past have family support plan arrears owing to them. They have worked and are working diligently to raise their children, and in many cases they are the only parent involved regularly with their children. They're on call 24 hours a day, seven days a week, doing their best to provide not only the basic food, shelter and clothing, but also emotional stability and a healthy environment for their children to grow up in.

While they do their best, they get no financial help from the child's other parent. In most of the cases, we know that the person responsible for providing support is gainfully employed, may be self-employed or may be hiding their income or hiding property as well. Closing files may appear to be condoning the actions of these non-supporting parents. This may feel like another slap in the face to parents who have already been demoralized by a process they have had to go through to get support and



then have to struggle on wondering when they will finally receive the support they're supposed to get.

If these non-paying parents owed taxes, they would not get off the hook. Why should they get to have their files closed? Are their children not as important as the tax dollars? At the very least, custodial parents should have some input into the process as to whether or not the file should be closed.

As for opting out of the family support plan, one woman where I live is currently separated from her partner, who has been abusive in the past. He's trying to dissuade her from going through the family support plan. He's not been a reliable payor, but he says he'll quit his job if she tries to get any more money or go through the family support plan. He's made other threats as well. She knows she will need help collecting from him, but she's concerned that he will harass her. It would protect her and protect the interests of their children if the court ordered the family support plan to get involved and they couldn't opt out.

There are many cases like this one. I've talked to other people with the same scenario as well. The children's interests are the ones that need to be protected, and ordering help from the family support plan would ensure that regular financial support did reach the children.

**1920**

About assets sheltered by third parties: I've talked to many women in the last few years who cannot get child support payments because non-custodial parents are hiding assets. One college friend who was in her 50s had been married for many years to a man she had travelled around the world with. He was a government worker. They had made good money, but he was very abusive. When she left he refused to pay any support at all, and he put all his assets into his sister's name so she wouldn't receive anything. In the meantime, he's taken his son on elaborate trips to places like New York City. For this reason, going after sheltered assets is a good idea.

Some other parts of the bill which we support, as Susan said, are denying a person in arrears a driver's licence and reporting it to the credit union, and we really hope you'll follow through with that and not be soft on it. That's what I've prepared.

**The Chair:** Thank you very much. The government will go first. We have approximately five minutes per caucus. Any questions from the government? If not, we'll proceed to Mr Ramsay.

**Mr Ramsay:** Jenny, thank you very much for coming tonight. I share many of your concerns, as I think all members do around the table. All three parties are working hard at this, this week, to complete the public hearings so that we can, as we have, generate some ideas for amendments to even improve the bill further. We're going to be doing that on Monday afternoon, submitting our amendments and debating them. We hope to — we will, actually; we've agreed that we will finish by 8 o'clock Monday night with that, ready to vote on the bill.

I certainly share your concern on section 7 of the bill, some of the areas where the director may at any time refuse to enforce an order. We're going to be putting forward some amendments to that section. Quite frankly, I'm not sure that a director should have the power to

refuse to enforce any order for any reason. This is an order that's been made by a judge in determining family support. I think we have to be tenacious, to go after that, and I certainly share your particular concern about long-standing arrears.

**Ms McKay:** I agree.

**Mr Ramsay:** It almost rewards the worst offender, that if you get your arrears into a long-standing category, whatever that means, then at the discretion of the director we could abandon you.

**Ms McKay:** It doesn't set a very good example.

**Mr Ramsay:** No, it doesn't sound very good to me at all. We're certainly going to attempt to delete that section for sure and maybe others. Thanks for coming.

**Ms Martel:** Thank you, Ms McKay, for coming here tonight from Kitchener-Waterloo. Let me ask you about part of the bill that you didn't refer to and find out first of all whether you're aware of it. One of the changes the government has proposed that we have argued against is payment of fees in two areas: First, if there is, as we understand from the Attorney General, repeat opting in and opting out of the plan, there would be some kind of fee attached to that, the price of which we don't know; second, there is also a proposal for fees for administrative work being done by the staff on behalf of either recipients or payors — we assume it applies to both — fees for photocopies of documents, pieces of documents out of files. What's your sense about whether we should be charging fees for anything involved with the family support plan?

**Ms McKay:** When it comes to the support of children, I'm really against people making a profit from it. I don't support privatization of the family support plan. I think that a judge who is involved with the government has ordered the plan, and it should be enforced by the government. We've already had to pay so much to get the support put in place, and that's just money taken right out of the children's mouths, really. When a woman is being sent support payments, she needs every cent that she can get, in most cases, so I'm really against the payment of fees or privatizing the plan.

**Ms Martel:** We've certainly heard, during the course of these hearings, from some of the presenters that they couldn't pay to have photocopies brought to this committee, so I think most of the members appreciate the situation people are in.

Certainly the government's business plan, looking at the plan over the next two or three years, very clearly does lead to a privatized model, which was also one of the concerns we raised very extensively in our debate, although we haven't talked about it much during the course of these hearings. With respect to the fees, my argument would be that I would really hate to see a private sector company make money off money that's court-ordered and legally owed to families. It's not government money we're talking about, it's not public money; it's money that has been already set down by the courts as owing to a family or owing to an individual.

Let me go back to your concern about opting out. You didn't really tell the committee your own circumstance, and it's up to you to do that, but I'm wondering whether you've had an experience about opting in or opting out



that you can share with us and provide us with some of your views on that point. We've heard all kinds of different views about whether people should be allowed to do that and whether the government should amend that section.

**Ms McKay:** I'm against being able to opt out, because it leaves some women who have been involved in abusive relationships — and there are a lot of them out there that we don't hear about; it just goes unnoticed sometimes. I know a lot of women who do get harassed. If there's a place where people can opt out, a lot of women are going to start getting harassed about opting out. I know this for a fact.

I know, as I said, one woman who's already being told everything about how the family support plan doesn't work and she'll never get her money that way, and then he only gives her a few dollars a week instead of the full amount or sometimes he doesn't pay her at all. She's just stuck not knowing what to do or where to go, and if she didn't have a choice, it would eventually go through the court — he couldn't harass her, because she had no choice in the matter — and she would start receiving the money that she really needs to raise her three small children.

I myself do receive money through the family support plan each month. My ex-partner is a regular payor, but I don't really know whether he would continue to keep good habits of paying right at the beginning of the month if there weren't a watchdog there keeping an eye. I'm not really sure about that.

But for the sake of all the other women, I really disagree with opting out. I think it's a good safety plan in place to make sure that all the children in the province receive some money.

**The Chair:** Thank you very much, Ms McKay, for your presentation here today. It was most valuable.

#### CANADIAN BAR ASSOCIATION — ONTARIO

**The Chair:** Our next presentation is the Canadian Bar Association — Ontario, Judith Huddart, vice-chair of the family law section, and Thomas MacLennan, executive member of family law section. Welcome, and good evening to you both. We have 20 minutes to hear your presentation, so I suggest you proceed.

**Ms Judith Huddart:** I'm going to start. Let me just say by way of introduction that the process in how we've arrived here is part of what we want to address this evening. The CBAO did provide a brief to the Attorney General last March when there were rumours circulating about cuts and changes to the family support plan. We expressed concern at that time, and as a result of that brief, I and two other members of the bar association met with the Attorney General and some of his staff and in fact met again with another member of his staff later. Our main concern was that we have some input into the changes.

We knew that the family support plan needed changes, but we were very concerned about what we'd been hearing, and what we'd been hearing had been what we've been reading in the newspapers. As much as I'm in favour of some of the changes — I don't want you to

think that we're dumping on this bill; I think there are a lot of good things — I do feel that this process could have benefited from input from the CBAO, and we didn't have that input. In fact, after we had our meetings and expressed a concern and a willingness to assist in working up a bill with the drafting, the first we heard of it was when the bill was introduced on October 2.

So we're here in a not much better position than a lot of the other individuals who have come here. We didn't realize the time frame on this, that the time line was so tight. We formed a subcommittee of the family law section to deal with the bill. We haven't even met. We're here, Tom and I, to give you our initial impressions; they're preliminary. I don't want you to feel this is the type of submission we would like to be giving tonight, but I want you to understand where we're coming from.

**1930**

At any rate, let me say as an overview that we do support a toughening-up of the enforcement provisions, so in that respect we're very pleased to see a number of terms in the bill: the suspension of drivers' licences and some of the other interpretations of income sources and so forth.

But we really have no idea from the bill what the ultimate enforcement agency will look like. We're very concerned that we have a bureaucracy now which is being, if I might say it in the plainest terms, royally dumped on in recent months, which may be replaced by another bureaucracy which may be dumped on some time in the future. We don't want that to happen. We want the energies to go to paying the support out and not to creating yet another bureaucracy, whether that's private or government-run.

We want to see some accountability to the support recipient. That's extremely important. That's the goal of where this bill should be going.

Problem areas: I'd like to talk about that because we have limited time. I think you've already heard, just from what I've heard tonight, concerns about the delegation of the director's authority. I do feel there are no proven benefits in the involvement of the private sector in collection, and this is a concern.

The assignment of the director's powers appears to be a very broad provision in the draft bill, and this isn't just for administrative purposes. As we read section 4, it includes the power to delegate discretionary powers. That's most concerning. The director has very wide discretion in this bill and if that discretion is delegated to a private agency, that could be a very different set of circumstances. As I say, that's very concerning.

The potential to charge fees — I heard a little bit about that earlier — is also very concerning to us. From our reading of subsection 4(3) and sections 57 and 58, there is certainly the potential that an agency could charge fees which are beyond some of the limitations in the act. In other words, once a private agency is set up, they have the power to determine who's going to be charged fees and how those fees will relate. For instance, we have a concern that the fee may come off the support. For example, if someone is receiving \$200 a month and the most they can get from the payor is \$150 a month and there's a fee on top of that — and who knows how much

that fee will be, because we have no information on that? — the recipient might end up with significantly less per month. That's certainly not what we want to see. We have very little guidance in terms of fees and a lot of that is left to the regulations.

The cost-of-living clause also concerns us. There is a proposal in the bill to limit the type of cost-of-living clause that will be enforced. Unfortunately, it's our experience that the clause they've chosen, which is the very basic clause set out in the Family Law Act, is not the clause that most lawyers use in their agreements and it's not generally what we ask for in court orders.

We are very concerned that the implications of limiting cost of living to the wording of the Family Law Act will have the effect of making those people who are now receiving cost of living amounts automatically forced to go back to have that changed, in fact to reapply to have a redefinition of their cost of living. Nobody's going to be able to afford that, so what you're really telling recipients is that they won't get that cost of living. I think that's going to have a very broad application, from our look at it.

We would be happy to sit down to work that out and perhaps come up with a clause that would meet our concerns and be appropriate for the government. I don't think that would be difficult; in fact, we could have done it had we been consulted on that. I think that can be worked out, but we're certainly not happy with the effect as the bill is now worded.

The other concern about the premise of limiting the cost of living, as I understand it from the bill, is that there is a reluctance to enforce anything that is not standard and that that was the purpose of putting in specific wording on the cost of living. Well, we have child support guidelines coming out next May and those guidelines are going to require annual recalculations of child support. If the government, according to this bill, doesn't even want to look at different ways of calculating cost of living, I'm very concerned and I'd love to hear whether there's been any consideration of how they're going to deal with annual recalculations of child support, because that will dramatically affect the payments going through the plan.

Another concern is with respect to estates. The Family Law Act provides that support orders normally bind the estate of a payor, but the bill proposes that there be no automatic enforcement. In fact, they are proposing that enforcement of support terminate on the death of the payor. That can have a significant impact. For instance, if you've got an older woman who's receiving support from her ex-husband, she could be in very tight financial circumstances. Certainly that's what the statistics seem to indicate these days. If those women are forced to reapply to have their support continue, that's a burden they really can't afford.

Think about it. In reality, what it could mean is that they would be applying to go against the estate of their ex-husband. That estate may be administered by his new wife. That is not a position that you'd want to put somebody in. There's got to be a better way of dealing with it, and I think the state should be assisting people on the death of a payor to maintain their support payments,

not taking that away. To say that they can apply under the Succession Law Reform Act for dependants relief is not the answer. That's a whole other legal application; it's a different set of criteria. And it's unfair, when somebody has an ongoing support order, that they be told to start over when it's nothing they've created that's made this happen.

I know you've heard a lot about withdrawal of the orders. I think there's mixed feeling in the bar about that. Certainly there is a recognition that we don't want to burden the plan with a number of orders that are apparently being paid without any question. But, as it was raised by the last speaker, we don't know what happens when you take those orders out of the plan. There's nothing to guard against duress, in my reading of this bill. I know that legislation in other provinces has stricter provisions and can even require a thorough review of the issue before a judge before anyone is allowed to withdraw. That's not present in this bill.

The other thing that has come up in our discussions is again something we might have suggested had we been consulted, which is that perhaps there should be a compromise: to revert back to what we had before the support deduction, to just have a payor pay voluntarily to the plan, which means it doesn't have to go through that person's employer, but it's still going through the plan so there's still somebody looking out for the recipient's interests. That's something that we could perhaps consider as a compromise, and I'd like to see that looked at.

The other issue I want to deal with is the regulations. Going back to the discretion of the director, the regulations allow for powers to be prescribed for practices and procedures, and that isn't defined in any way. We're very concerned that we perhaps have a role in drafting some of these practices and procedures, as we know that has to happen and that could be an integral part of the functioning of this system. We're also concerned that there be some limitations on the delegation of those practices and procedures, that they not be further removed from the direct responsibility of the ministry.

I'm going to stop there and let Thomas continue.

**Mr Thomas MacLennan:** I'm going to be brief, because Judith raised most of my concerns. I want to repeat her concern that we did not have an adequate opportunity to thoughtfully review this draft legislation and come to you today with the ability to have sat down among ourselves and to have discussed it. There are four people on our subcommittee and only two of us were able to be here this evening. One is with her child at a tonsillectomy today and the other one is on holidays. That's because we received notice of this hearing three days ago. That is simply unacceptable.

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One more matter that I'd like to raise and that I hope this committee considers is that, irrespective of the changes — and I'm in agreement with Judith that some of these changes are long overdue and we're very happy to see them, because they enhance the collection of support for many women and children — this government ought to be ensuring proper funding for the family support plan. This government ought to be ensuring that the plan is properly staffed and that people receive the



money this government collects for them. Recent events involving the family support plan, in my submission, are an embarrassment to this government and to this province.

I also share Judith's concern with respect to farming out the director's responsibilities to agencies and private institutions and the ability of those agencies and institutions to avoid the application of sections 57 and 58 of this draft legislation, those sections dealing with the payment of fees and the priority of payments received going first to ongoing support, then arrears, then, ultimately, any fees that may be prescribed. That's something I have a great deal of difficulty with.

Unfortunately, what we're faced with is a situation where none of us at this table knows what is going to happen, because, again, the regulations are so broad that to make any comment on this at all would simply be to guess. Those are my comments.

**Mrs Boyd:** Thank you very much for coming. I'm glad that on such short notice you could at least give us the benefit of your advice so far. The cost-of-living clause issue is an important one, and it's one we haven't been able to come to grips with in terms of the amendments we're proposing, because it really is a very complex issue. Part of the problem is that the variation that's there between orders really creates a problem. I think the Attorney General would be very unhappy if he found 150,000 people suddenly in the courts getting a variation to cost of living. I'm very fearful that may happen.

I'm curious because no one has talked about the challengeability of some of the enforcement things, for example, the issue of going into joint bank accounts, getting partnership things and so on. My concern is that this looks really wonderful to clients of the plan and they aren't taking into account how prolonged many of the legal wrangles will be in order to take advantage of those clauses. Could you comment on that?

**Ms Huddart:** I agree with you that we don't know. We don't have an answer to that. Certainly, there may be ways to speed up this process, in theory. I think it is something that's needed. I don't want to take away from that, because it has been a real problem when people try to find a way — it's amazing, the inventiveness of people to escape that.

I don't know what the solution is. We've been trying to expedite a number of things going through the courts, and we haven't been successful. I think that perhaps, again, it's going to take somebody to keep a strict handle on this and make sure that it's not allowed to go off in limbo. There are ways to deal with it, but I think we have to set deadlines and we have to set time frames. Maybe that has to be built right into the legislation so people are aware of that.

**Mrs Boyd:** The number of lawyers working for the plan has dropped from 17 to 4. The business plan suggests that you can use rent-a-counsel, if you like, to do some of these things out in the areas. Can you comment on that.

**Mr MacLennan:** I can't speak for the legal profession; I can just speak for myself. But I think that's a carrot that's being thrown at us: Maybe we'll get a little extra work from the downsizing of the plan. I don't

understand why it's necessary to reduce the number of staff lawyers at the plan. I think any economic analysis would show that paying a salaried lawyer to enforce these things, someone who then develops an expertise in enforcement, is far cheaper and far more cost-effective for the province than farming it out to lawyers.

**Mr Tilson:** Thank you for coming. The ministry has put forward some calculations as to the existing plan, which has existed for a number of years, and in particular, there's about \$1 billion in arrears, of which the ministry estimates that one half is collectible. They talk about only 23% of the cases are in full compliance, they talk about in a full 46% of the cases no payments are being made at all and they talk about 77% of the cases not in compliance; three out of four families aren't receiving the money that they deserve.

You may or may not agree with those calculations, but I believe that you will agree with the fact that the systems we've had in the past simply haven't worked. I've listened very carefully to some of your comments, and I know the government will listen to your suggestions, with possible amendments. I would like you specifically, listening to those figures — and you may not agree with them specifically, but I presume you will agree with the fact that the systems since 1987 simply haven't worked. The various enforcement tools that are being offered — you know them, and we all know them in this room — what effect do you think those tools or the threat of those tools will have on these figures?

**Mr MacLennan:** I have a couple of concerns. Again, we received a few days' notice of this hearing —

**Mr Tilson:** Okay, I've heard that. I'd like you to direct our comments —

**Mr MacLennan:** — so this is a preliminary concern. I haven't been able to sit down with Judith and discuss this.

**Mr Tilson:** But you both practise family law —

**Mr MacLennan:** We both practise family law.

**Mr Tilson:** — so you know what the game's about. You know what threats will do and you know what is needed in the system.

**Mr MacLennan:** For a couple of things I think what's needed is flexibility, and I don't see that in this legislation. For example, I think it's section 35, dealing with the suspension of drivers' licences, subsection 35(2) states that there's a limitation on the court's ability to make this so-called order to refrain 30 days after the notice is given. That's great, that's a wonderful deterrent. If you get this notice, you ought to run out right away and address your arrears, otherwise you're going to lose your driver's licence in 30 days and there's no way that you're going to be able to get it back. That's how I read that. My concern is that a lot of these payors are going to be sticking their heads in the sand and are going to be ignoring these notices that they get.

**The Chair:** Thank you, Mr Tilson. We're going to have to move on to the next caucus. Mr Ramsay, two minutes.

**Mr Ramsay:** Thank you very much for your presentation. I'd like to ask, because this is the second time tonight the restrictiveness of the COLA clause in subsection 7(4) has been brought up, what's the reasoning from

the ministry that the COLA clause has to be in accordance with the Family Law Act?

**Mr Goodman:** That is the provision in Ontario legislation that we're dealing with that provides for an automatic system of calculation based on the consumer price index.

**Mr Ramsay:** Why does it have to be on that basis? Has there been confusion with some of the judges' orders in regard to COLA that you can't interpret it properly? Why does it have to be by that formula?

**Mr Goodman:** The trouble with COLA is that there can be almost as many different provisions as COLAs or lawyers or judges who are dealing with the situation. The attempt is to try to standardize the types of COLA clause that the program will be enforcing.

**Mr Ramsay:** I know you said you didn't have time to develop any wording, but what sort of concept would you be looking at to develop that wording? What would you be looking at?

**Ms Huddart:** One major problem that we have certainly in Metropolitan Toronto is that you're left to deal with the percentage change in the consumer price index for Canada. Why Canada? We never put Canada in our agreements; we put Metropolitan Toronto, the city of Toronto. I think it should be linked to the metropolitan area where the recipient resides. That makes more sense. You're penalizing a lot of people in metropolitan areas by picking the Canadian consumer price index. That's a very simple thing that we could change. We could just agree that it be the jurisdiction where the recipient resides. I don't see why we can't change that. There's no magic to that. That, to a great extent, would alleviate a lot of the problems we would see.

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It's not going to help the people who have off-the-wall cost of living, but I think to a great extent a lot of lawyers would be satisfied even with that one change. Then the question is, how can we implement it? I think the other thing you do is that you deem a cost-of-living clause to be worded this way if it isn't, and if somebody doesn't like it let them go back and apply to have it changed. That way, at least you're not booting it out the door.

I think we could do that. It's a simple question. We deem a lot of other things in legislation to be what they're not, and I don't see why we couldn't do that here so that at least the people will have something sitting there for them. That's my suggestion.

**The Chair:** Thank you very much for your presentation here this evening. We're proceeding to the next presentation, Gary McCutcheon. Is Mr McCutcheon present? Jo-Ann Tambeau?

ROBERT REIMNEITZ

**The Chair:** Robert Reimnitz? You're scheduled for 8:30 but we can get you in now.

**Mr Robert Reimnitz:** Thank you very much.

**The Chair:** Please proceed with your presentation. You have 20 minutes allotted to you, including all questions. Please proceed.

**Mr Reimnitz:** Let me first introduce myself. My name is Robert Reimnitz. I come here from Windsor. I

received a call from the member in my district asking me to come here and speak this evening to the problems that I've had with the family support plan. I've only been involved with the support plan for a very short time. My order was written June 21, or in that relative area, and in that time I've had increasingly difficult times getting hold of anyone.

It seems to me, after reading this, which I received only tonight, that there seems to be a great deal of concern for the expansion of the ability of the recipients to receive the payments, but the situation that I've become aware of so far is that the money I am paying through my employment is not getting to the recipient. So far, there have been arrears on my behalf, according to the people at the family support plan, and to that fact, when the court order was written and when the family support plan started deducting from my income source, I pre-informed the payroll clerk at my place of employment that the deductions were to be started. I wanted to do this so that there would be no arrears.

From day one, these payments were made directly, and I can provide perfect payroll records to that fact, and yet upon my changing employment, my source of income, there was an extra deduction for supposed arrears. This is a deduction that I did receive advance notice of, and I did make several attempts to contact someone in the family support plan to discuss this. I made a total of 78 phone calls, in which I was told every single time that someone would call me back next week. There seems to be no accountability on the part of the family support plan whatsoever. I spoke to my member in the district where I live and she sent them, she told me, probably 20 phone calls, 20 faxes, and no one ever gets back to anyone. It seems to me that there is no means for a support payor to have any sort of control as to the extra actions taken against him.

I read in this bill here that I received this evening that there are going to be changes in the way the law is taking — I'm not sure how to phrase this — penalties upon the payor in the case of arrears. I think that all of these are excellent ideas. There should be some accountability on the part of the payor, but the fact of the matter is, speaking I hope for responsible payors, there's no accountability on behalf of the government. There is no one in that office who can account for anything.

Yesterday, only after receiving the call from Mr Arnott, I decided to try and make one more attempt to speak to someone at the family support plan, and the only answer I could get is, "I'm sorry, we can't help you." I said, "Well, where's your office located? I can come down and I can prove to you in written documentation that I have not missed a single payment." They said, "I'm sorry, we cannot do that. We are not set up for you to come down here."

My question is this: What recourse does a payor have? I don't understand. Everything in this bill seems to be catered towards the support recipient, and I don't see anything towards some accountability towards the payor.

That's all I've really come here to say this evening. If you have any questions for me, I'd be glad to answer them. I was given no notice — I think I was called on Tuesday or Wednesday, and the member in my district



informed me basically nothing of what this was about. That's all I have to say.

**The Chair:** Thank you very much, Robert.

**Mr Tilson:** Mr Chairman, could I ask the indulgence of the committee? Mr Reimnitz, I'm the parliamentary assistant for the Attorney General and you're one of several people who have come to the hearings with personal problems, personal failures in the system. I'm prepared to speak to you after you've spoken to the committee about that. You may not wish to put those personal problems on the record, because this is all a public record. Having said that, you may not want my assistance, and that's fine too. But if you do, I would be prepared to meet with you after your presentation here. Members of the committee may wish to address questions to you on anything, but I offer that to you.

**Mr Reimnitz:** I did just think of one thing. I'm sorry, but this just came to me now. I don't know if it's in this bill or not, because I haven't really had a chance to read through it all, but I would suggest some sort of, I don't know, a snitch hotline for people aware of payors who are extremely delinquent and who have more than the financial ability to pay the arrears.

It saddens me to say that I can actually testify to a case where someone — I live in Windsor and there is a lot of cross-border travel. There is someone living across the border who is, by any definition, financially affluent, who is, to the best of my knowledge and to the best of the family's knowledge, extremely delinquent in family support. This is a gentleman who makes constant trips across the border. People in authority here would have any number of opportunities to speak to him to make him accountable for these actions, but from what I understand, there's no system set up to report this sort of activity.

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**The Chair:** Thank you. First, any questions from the government side? If not, Mr Ramsay.

**Mr Ramsay:** Robert, I just hope the whole thing works better too. It needs to work better for all parties involved. I think a lot of the emphasis has been placed on the payee because in the history of the program that's where a lot of the problems are, but I'm very sympathetic to your case too. You're the second person to come before us who has said that the plan says they're in arrears and, to your best knowledge, you're not. You don't have any recourse to go and somehow show and prove, and you've got payroll records to straighten that out. Hopefully when the plan does get straightened out and their central office is up and running and fully developed there will be an easier way for people to access the plan — because mistakes happen — to refute charges that have been made etc. So I support you in this. The plan has to be fair to both parties so that it works well for everybody. I support you in that and we'll work towards that.

**Mrs Boyd:** Thank you for coming. I really feel that your observation that most of the focus is on recipients as opposed to payors is probably correct. There is a reason for that, of course.

**Mr Reimnitz:** I fully understand that. When I got involved with the family support plan I was told I did not have a choice as to that. I understand the reason for it,

but I was actually encouraged by it because it makes everything easier for both parties.

**Mrs Boyd:** Sure. You don't have to deal with money when you're at an emotional point of breakdown anyway.

**Mr Reimnitz:** For two people dealing with children, if you take the money out of the argument, the argument goes away.

**Mrs Boyd:** I think you're right. That's a very important thing. That's one of the reasons we're not happy with the opt-out clause and the possibility that the director could withdraw any enforcement of the act, because we think it tends to reduce some of the hostility and some of the difficulties. It's hard enough, isn't it, to maintain contact and to exercise access over children?

Do you have any comments? I think one of the things that puzzles people is why there seems to be such reluctance among such a large group of men to pay the support that they've been ordered to pay.

**Mr Reimnitz:** The only thing I can really say to that fact is when I was going through the proceedings in court for my daughter, we went through this on what I would refer to as an amicable level. We discussed it and we came to certain figures, to the fact that this is what I could afford and this is what seemed reasonable, and we went through the financial statements, both lawyers. What ended up happening was that the lawyer on her behalf, in my opinion, greatly overestimated my income, in the extreme. In the actual court case they took my single highest pay stub ever and based my whole life upon that. What I was told was the only thing the judge will accept is that he can reasonably argue to the fact that you might make that much. The court system is, in my opinion, completely unreasonable.

**Mrs Boyd:** What would help you, really, would be some adjustment to the Family Law Act where how these things are calculated might be set out. You probably know that the federal government and the Ontario government are looking at specific guidelines for support of children that would be in play to meet the needs of the children. The focus then would be on the children as opposed to either parent. Do you think that might help in the circumstances you're talking about?

**Mr Reimnitz:** I think that would probably help. The single biggest irritation to me with the way my support is paid to the recipient is — my daughter's mother is on social assistance and she has been for quite some time. The only thing that really bothers me about it is, when we went through court they explained to me that the government has come up with a set of guidelines to the amount of support paid, based on your income. These guidelines are set out to ensure that your children do not live in poverty, but 100% of the money I pay is deducted off her social services cheque. My daughter sees exactly none of that money. I do my best to provide her with clothing and everything else outside of that, but with the amount I was told I'd be paying, I can barely afford to do that. I think there should be some sort of appeal board or appeal process to the amount of support paid.

**Mrs Boyd:** Other than just going back to court and going before another judge.

**Mr Reimnitz:** Yes. If you can't afford to pay the support, you can't afford to pay a lawyer.

**Mrs Boyd:** There's been some suggestion that one of the solutions to that might be the solution they have with the mediation process in Kingston, where they sit down with a paralegal person and work that stuff through on an agreed basis. So far their success rate appears to have been better, because both parties tend to be more satisfied with the decision that comes out of that process rather than just the adversarial process of everybody putting their financial statements in and then arguing it out in front of a judge. Do you think that might work better?

**Mr Reimnitz:** That would probably help greatly, in my opinion. I went into this without a lawyer. I couldn't afford a lawyer, so I went down to the courthouse, filed the papers myself and went to the law library and read. I think there are probably a lot of people in my position who cannot afford counsel, so a mediation process like that would probably be a great asset.

**Mrs Boyd:** There are a lot of people who opine that the legal system would be better if more people were more informed about it in the beginning, whether they're instructing a lawyer or whether they're doing the work themselves.

**The Chair:** Thank you, sir, because no one has spoken about mistakes. When the full draconian steps under this bill fall upon an innocent person and ruin his credit rating and things of that kind, I think that's something to reflect on. Thank you very much for attending today.

Now, Joan Fraser? Gary McCutcheon?

JO-ANN TAMBEAU

**The Chair:** Jo-Ann Tambeau? Welcome this evening. We had you scheduled for 8:10, and we're right on schedule. You're the only one today. Excellent. Please proceed.

**Ms Jo-Ann Tambeau:** Okay. I'm in favour of many of the changes. The tightening of the reins, so to speak, has been a long time in coming.

I am someone who has been on the plan since 1990. It has in some areas worked for me. I have some grave concerns in the following areas, and one of those is opting out. In my case that's not possible, especially when there are restraining orders involved. Another one of the areas refers to what Sue said before, with coercion by the spouse to try to get us to sign something.

I was one of those people who signed something in 1993 when the family support plan garnished his wages. He came to me with an agreement made by a lawyer, making promises that if I signed it he would give me the cash, he would give me other things. At that time I didn't have a lot and I was counting on that money. I signed stating that he gave me the \$7,000, the affidavit. He took that and sent it to the family support plan. He was reimbursed the money that had been deducted and in the end I owed social services \$7,000, which I still owe them today. However, I'd never be convinced today to sign that, but I wouldn't have known had I not done that. It's very easy to fall into that. They promise you the world, especially when someone is garnishing their paycheque.

As far as the privatization goes, I don't agree with it whatsoever. When some of us are counting on our support payments each month and that is all we have to

live on, I'm afraid that if it goes to privatization, we will be charged fees. Those fees will be taken off the top, off our support, and there are no dollars to pay fees. When we went to court and the judge decided what he should pay and what we were going to live on a month, we use every penny of that. We can't afford a fee. We can't afford another dollar off those amounts.

My last concern is the delegation of authority of the director. We fought long and hard in court. I'm still in court with my court case. To date I've paid \$10,000. We submitted to the courts our statement of incomes. The judge decided on that information what should be paid. It's been a long battle. I really don't want anyone with the authority to decide whether there should be other arrangements made, whether he should be able to pay less when he is in arrears. That's already been decided upon. It took us a long time to do that and a lot of money, and I don't think anyone should have the authority to do that.

**2010**

Last but not least, I have another case also with the family support plan for \$60,000. Of that \$60,000, since 1990, \$600 has been paid. That is one of the cases that probably when it came before someone who had the authority to close that and deem it uncollectible, it would look like a case that should be. However, this person is married to my sister and lives a few miles away from me. The mortgage is in my father's name and my sister's name so that he's out of it. So if someone were to deem that uncollectible, I know it is collectible. I know he has assets. I don't want to see someone else with the authority to throw that out, because I'm the one who's gone without that money. I'm the one who's scraped. I'm the one who's lived on a budget. And he has had, so to speak, the life of Riley over the last four years. So possibly it's time now that he did whatever he had to do to pay his arrears and he can live the way the children and I have over the last five years.

That is basically all the concerns I have. Are there any questions?

**The Vice-Chair (Mr Ron Johnson):** Thank you, Ms Tambeau. We will move to some questions, starting with the Liberal caucus.

**Mr Ramsay:** Jo-Ann, thank you very much for coming in and sharing your story with us tonight. You give us a very good example of why the opting-out provision proposed in the act may not be applicable to everyone, in your case maybe for two reasons. You've talked about a restraining order and you also said that because you then received the money, an order was registered that you received the money, all of a sudden you were in arrears yourself with Comsoc for social assistance.

**Ms Tambeau:** And still am to this day.

**Mr Ramsay:** And still are today. So there may be some good reasons there for that protection in the act. I think what we're going to have to try to strive for is some balance here where, when there's no good reason why somebody shouldn't be able to opt out, they be able to do so, but there are certain criteria that would have to be satisfied before that option could be exercised.

I'm especially concerned about people who have suffered abuse. How is the plan to know that there's no sort of physical coercion going on that has maybe made



up your mind for you to opt out? I'd want to make sure there are some protections there, and so I think our challenge is going to be the next couple of days to try to —

**Ms Tambeau:** Exactly, and possibly if you looked at maybe that person has had a track record even before the court order or has made payments on a regular basis, then that would be someone. But in my case I had to take this person to court to get them to pay. Obviously he was never going to pay unless the court order was there. And even when the court order was there, he did not pay until the plan caught up with him in 1993 and garnisheed him. That's when he got excited and made the promises.

**Mr Ramsay:** I think under the new act, where information is forthcoming, like the second case you were talking about, there should be powers in the plan to pursue these assets now that have been hidden in the past. When this act is passed, the plan should have the resources and the wherewithal to go after people, as in the illustration you gave, where there are some assets to be able to rectify that situation. I think this new act should improve that situation.

**Ms Tambeau:** Definitely. And hopefully too there's some kind of open line between we who know what they're doing and how they're scamming and how they're hiding it. It's not just my case; I know many other cases where it's been sitting in someone else's name. They run their own businesses; they evade the taxes. Possibly something similar to here: Maybe if you had some of us come in and everybody compared stories and put it all out on the line, your enforcement officers would have a better time of collecting and knowing the tricks and what games they play.

**Mr Ramsay:** Very much so; that's a good point. I think when they get into this they're going to all of a sudden discover a lot of these things and probably learn from that, so I think you're right. Thank you very much.

**The Vice-Chair:** To the third party, Ms Martel.

**Ms Martel:** Thank you very much for coming, the three of you, from Waterloo this evening. I want to focus in on the concern which we have raised in the House quite strongly around the ability of the director to choose whether or not to close a file and whether or not to take any enforcement action. The reason I do so is because I have heard the Attorney General on more than one occasion, and I heard the parliamentary assistant again here tonight in a question to the last group, say that the plan is \$1 billion in arrears, of which the ministry estimates one half is uncollectible.

I don't know why the ministry estimates that \$500 million is uncollectible, but I tell you, when I hear that and then I look at the powers that the director is going to be given to close files, I have to wonder if we are going to see \$500 million worth of files closed if this provision goes through in the way it's presented. I have to wonder if any number of women who came here before us with horror stories of being in arrears 14, 15 and 16 years are the very ones who are going to have their files closed.

So what I want to ask you is, in terms of your arrears, some \$60,000 worth, it seems like (d) applies to you: "arrears of long standing are owed under the order." Do you think it's right that the director should have that

right? And are you not concerned, when you hear the government say that \$500 million is uncollectible, that your \$60,000 might be part of that?

**Ms Tambeau:** I believe it will be part of that to make the numbers look right, and it's dead wrong. If anyone's is collectible — it doesn't look it, but the sheriff has been at this guy's door. There was an order by the sheriff to go out and see what assets he had. When the sheriff goes out four times, if he doesn't happen to be the one coming to the door and someone else comes to the door with a story, the fourth time it goes back and goes back to the support plan. My ex-spouse's statement was that he travels between England and Florida, where my father has a home, and he's sometimes here and there. Well, it must be nice, with \$60,000 in arrears, to be jet-setting all over.

And you're darned right: To make those numbers look good, my \$60,000 will probably be one of the first ones gone, and he's collectible. And no, I don't know who is giving the director the power like that. Why did we go to court? Why did I pay \$10,000 to get this court order if somebody in the swoop of a hat can just walk in and say, "It's not collectible"?

**Ms Martel:** Some of the other criteria are ones that are of concern to many people. The first one is, "(a) the amount of the support is nominal." We've heard from a number of presenters that "nominal" depends on what your own financial situation is, because \$25 or \$50 may mean the difference between your buying food or you at a food bank. I really worry about who's making those decisions and why we even have that kind of criterion if in fact we're going to have the enforcement tools that the government says we're going to have to start collecting some of this. Why do we need a whole section that allows the director to make a decision to close a number of files if we have all of these new tools that are going to help us enforce and get all this money back?

**Ms Tambeau:** He shouldn't be given the authority and he has no right to change anything in those orders. We fought long and hard for them. Like you said, "nominal": nominal to who? When the family support, at the beginning of September, was \$2,200 in arrears to me and I live on \$1,200 of that a month, nominal to me — \$1 meant a lot to me. So who's to say? When I budget on that \$1,200, \$10 is nominal to me. I can make \$10 go a long way these days.

**Mrs Boyd:** Thank you very much for coming. I really have been so impressed as we've gone along with how very clearly people can explain their own situation. It must be very emotional to have to do this. I gather that you are part of a support group around this issue?

**Ms Tambeau:** Yes, I joined Jenny and Sue when we started up in Kitchener because the arrears were burying us.

**Mrs Boyd:** Approximately how many people are there in your group?

**Ms Tambeau:** Approximately 35.

**2020**

**Mrs Boyd:** So I expect each of you has an individual story that has many of the same themes but would be a little different in each circumstance.

**Ms Tambeau:** Yes, and some of the stories are worse. I was lucky to have a bank manager behind me who

allowed me to go into overdraft. It incurred a lot more costs for me when the support plan was \$2,200 in arrears to me at the beginning of September, but I've now incurred costs for a \$5 presentation for each cheque that came in for one of my bills, 21% interest on the money I was overdrawn that month — that was a little rough in the first 18 days of November, when I received one payment.

**Mrs Boyd:** Did you bill the Attorney General's ministry for that?

**Ms Tambeau:** I have not done it yet. I need to go through all my bills. I've spent many dollars calling Mr Harris's office and speaking to his aide, and in the end I did get things done, but only because I'm a very aggressive person. A lot of women out there didn't know how to do it. But I also landed in a shelter when the plan went, because when you're \$2,200 in arrears and you live on \$1,200 a month, there is no money to pay your bills.

**Mr Guzzo:** Thank you very much, Ms Tambeau. It is an interesting observation for those of us to hear the issues on a personal basis. I'd like to clarify just a couple of quick points; first of all, the nature of your ex-spouse's business. What type of work does he do?

**Ms Tambeau:** For which court order, the \$60,000 in arrears?

**Mr Guzzo:** Yes.

**Ms Tambeau:** He works under the table. At one point I have information on him working along the highways, which would probably be city workers. He needs a private investigator on him. He does own his home with my sister and my father listed as the owner of that property, along with his wife.

**Mr Guzzo:** With regard to the problem in which you found yourself with the welfare department, do I understand it that what happened was your ex-spouse showed up at your door and asked you to sign an affidavit and he filed that affidavit?

**Ms Tambeau:** Yes. When the court order had been standing already I believe for two years at the time, the final wakening call came for him when the money came off his cheque.

**Mr Guzzo:** Right. So he shows up with an affidavit, which you sign.

**Ms Tambeau:** Yes.

**Mr Guzzo:** And he uses it to get back the \$7,000; you wind up owing \$7,000.

**Ms Tambeau:** Yes.

**Mr Guzzo:** Right. Do you know how serious it is to sign a false affidavit?

**Ms Tambeau:** Yes, I do.

**Mr Guzzo:** Do you understand that it could carry a jail sentence? Did you know that?

**Ms Tambeau:** I do now.

**Mr Guzzo:** You know the other cases to which you referred? You talked about knowing other situations and other cases where scams —

**Ms Tambeau:** Yes, and I've gotten those women too reported to the family support plan. Any information I've ever had, I reported, and I went directly to social services when I signed that paper.

**Mr Guzzo:** And you say there are numerous ones through your group and through your contacts where you live that you know.

**Ms Tambeau:** Yes.

**Mr Guzzo:** Any of those using the sheriff's office in your community in the manner which you describe?

**Ms Tambeau:** Not that I know of. The order came from the family support plan for the sheriff to —

**Mr Guzzo:** Just to go back to the question of privatization, I understand quite well what you're saying with regard to fees, and they would be hefty. To privatize in circumstances such as this, you'd be paying a percentage. I would think that's what we're talking about. I also think we're talking about very, very rare cases. In the case of the \$60,000 and your inability to collect it, if a private agency were prepared to guarantee you collection, without fee unless it's collected, would you be prepared to pay 30% to collect that \$60,000, have \$40,000 in your pocket and \$20,000 —

**Ms Tambeau:** No.

**Mr Guzzo:** Thank you very much.

**The Chair:** We have two minutes left.

**Mr Tilson:** Since you represent a group, a question that I've asked other deputants who have been here has to do with payors who do not pay. There are different types of payors who do not pay. Some will say: "I'm not going to work any more. I'm not going to own anything. You try and get money out of me. I'll live on social assistance." Then there's the type of payor who will say, "I'm just not going to pay," and they stash their assets with another spouse, they have hidden bank accounts — under a rock, wherever they can hide it.

My question is — and I assume it's generally women you communicate with — why do these people act like this? Why do they do that? They just don't care? One man came and said: "It's because of access. If I don't get access, I'm not paying a nickel."

**Ms Tambeau:** We have so many. That's why the only victims in this war are the children. There are many people; there are many different personalities. I've had two of the incidents that you just stated. One was going to quit his job at Ontario Hydro and I would never get a dime; and the other one's hiding everything and living behind my sister with my dad helping out. I guess not very well-rounded people and I made a few poor judgement calls.

**Mr Tilson:** So you don't think it's the access issue? You think it's just the type of people who are like that?

**Ms Tambeau:** Yes, it's the type of people. In my court order with the one with Ontario Hydro right now that I am getting payment on, when asked about access by the judge, he didn't want any.

**The Chair:** Thank you, Ms Tambeau, for your presentation here this evening.

Ladies and gentlemen of the committee, there are no more scheduled witnesses. However, we have one individual in the audience who has requested from the clerk an opportunity to make a presentation to this committee. We are legally entitled to sit till 9. It means that we've refused 35 other persons. However, this person is here and wishes to make a presentation. I am guided by what this committee desires. Agreed?

**Mr Ramsay:** Do you know how long the presentation is?

**The Chair:** No, I have no idea.



**Mr Ramsay:** Could we just give him 10 minutes?

**The Chair:** We didn't know what the other ones were either, so it's called pot luck, Mr Ramsay.

**Mr Ramsay:** The usual rules?

**The Chair:** Fine.

#### MARIUS FREDERICK

**The Chair:** Sir, you have your opportunity.

**Mr Marius Frederick:** My name is Marius Frederick. I am from Mr Tsubouchi's riding, Markham, and I had the unfortunate luck to come up against the system. My wife took off with the children. In Newmarket I went to the courthouse. The laws of Canada state that when a spouse takes off with the children it is a criminal offence. They refused to lay the charges because she's the mother.

We seem to have a two-tier system. I'm going to say something which is not going to be taken very well. We seem to be heading down the path where in the 1950s and 1960s black people weren't able to ride on the buses. We seem to be creating a gender war, ladies and gentlemen. I am really saddened by this because I've seen and heard the stories of a lot of men. A lot of children are getting hurt, like the lady before me has said, and really the only ones who are benefiting from it are the lawyers. If there are any lawyers in the room, that's too bad, but it's true. Only because you go to the lawyer, he's there's to protect my rights — "Yes, give me a \$1,000 retainer, a \$10,000 retainer."

Another thing: We have the destruction of the legal aid plan, so the legal aid system goes, "Okay, you sign the kids over to the wife because she's the caregiver, and if you don't, if you refuse to, we're going to cut your legal aid funding." That still goes on all the time.

I don't know what to say. I've been watching the parliamentary channel lately and somebody keeps standing up and saying to the House, "Minister, don't you know that your family support system is not getting the money out to the people who deserve the money, and the women and children are starving?" Ladies and gentlemen, I'm tired of people standing up and using the children as a shield. The children should not be used as a shield in the House, in the media or anywhere.

2030

Women and children are not the only victims in this. I'm speaking personally because I care for my kids. I'm paying child support that I can't afford. I will lose my place where I live because I do not have the money to go and fight in the court system to get this. That's the way it's going on. I want you to know that the things you do here really affect other people.

There's another thing that we came upon. I have had a look at the Civil Justice Review. You have a bill sitting there that wasn't proclaimed by the former government. The Civil Justice Review even said that women can lie in front of a judge and tell lies on affidavits, and there's nothing being done about it. Your own Civil Justice Review has it in the records and nothing, ladies and gentlemen, has been done about it.

We are asking, on behalf of the children, on behalf of everybody, on behalf of the men. I'm the product of a woman and it seems that once you're no longer a child and you become a man, you're somebody else that we've

created. We're worse than a dog; a dog has more rights than us. I've worked for this country and I've been in the military. I went to Newmarket court. I fought in the municipal election. I'll give you a little bit of history.

My municipal council was shutting down fire stations, like we shouldn't have fire stations at night. We had a problem with that. I ran in the municipal election to bring up that subject and I got the people aware of what was happening. We now have new fire trucks and those fire trucks attended that woman who got killed on Steeles Avenue. I'm sure you heard about it. I'm saying that somebody can make a difference.

I beg you. There are men's groups out there; there are tons of them. I've looked on the Internet. There are two sides to the story, and to be going on the side of the woman all the time — I mean, we're making a two-tier system and we're having a thing where you go into court and the judges tell you that you should become a more productive member of society just by looking at you, and I think that's not right.

We've got something here. We've got a bill here that's telling us that you're going to take our licence away because we work. We're not making \$50,000, \$60,000, \$70,000, \$100,000 a year. Some of us are just barely surviving with the economy that we have going on out there right now and it doesn't seem to be getting into anybody's head where all the money is going.

Another thing I heard on the TV is that the money is missing for the children. When I started, I thought it was going to be a 50-50 proposition, not that the father is supposed to give all the money and the mother is supposed to be dependent on all that money. The father's having his own problems as well. Granted, I know there are some men who may shirk their duties, but to be quite honest, if I have to pay for my children, the mother gets the money. According to the law, the way the system is, I have to go pick them up. That's my gas money. I have to pay for repairs on the car. If my car's stolen or something happens, I have to pay for the seats for those children. I have to pay for food. I have to have a house for when they come for this so-called access. I find that a disgusting word. Nine times out of 10 we take care of the children.

Because of women's lib you want us to be a more caring person, a more caring man. Yes, we are more caring and we want equal rights, but there are no equal rights when we go to the court system and we're being totally trashed before we open our mouth or something. "I'm sorry; the children belong with the wife." Meanwhile we've stayed home and we've taken care of those children, and then the system comes in and it rips it apart all over.

I know a lot of men's groups. We're not funded by government agencies. I'm telling you right now and I'm giving you a warning that when it comes to the system, people are handling it in different ways. We had a murder of a husband and a wife. You've read the story. I have researched it and it has come to my attention that the father was taking care of that child, worked out of that home. The mother again went to the lawyer, the lawyer said, "Oh, we can get him. We're going to say he did this and did that," and the guy lost it. They put him

in jail a couple of times, and then he comes out and he kills.

I don't condone violence and I say, ladies and gentlemen, we have to find a way to take it out of the system. There are more than enough criminal laws to deal with the situation if the person is a violent offender, but take it out of the hands of the lawyers and get it out of the system. Put it for mandatory mediation. After that, if it doesn't work, then by all means put the courts on it. But to put the courts on it, you're destroying the family, you're destroying everything. This aggression between the mothers and fathers, if it cannot be worked out, I don't know, but we're coming to a point where we're creating a backlash. It's coming very shortly.

**Mr Ron Johnson:** Thank you for your presentation. I know that you give a different perspective from what we've been hearing most of the time. As much as I disagreed with a few things that you said, you made some points that I did agree with. I think, though, that what's important to understand is that this bill deals only with parents who are not living up to the responsibilities that they have to their children. If non-custodial parents are living up to their responsibilities as deemed by a court, then this bill won't affect them in a whole lot of ways, other than some opting-out clauses and that sort of thing. It's important to recognize that.

**Mr Frederick:** The family support plan is a setup for failure, the way it stands at the present time. They make an order and it's always made that it's either what the person cannot pay or you have it being pulled off from the employer directly into the family support plan. The family support plan has a history even before this government came into fact. That's another thing which is fallacy that I hear on the TV.

I know somebody personally who has the cheques for everything he's paid and the family support plan has always been behind. The system is drastically flawed. You're telling me that you're going to take away people's licences and the chance to earn a living. I can see the taxicab drivers, I can see the bus drivers, I can see a province-wide strike that you have never seen before because you've pushed, you're coming to a brink, you're coming to a position I spoke to somebody about. He said, "It's out in Alberta or something like that."

You've taken the money away from the employer, but there's still a problem. I can see people losing their licences, then losing their jobs, because there's a flaw in this bill. There's no mechanism for you to check on what's actually going on, because the system has been flawed for so long. You plan to ram this bill through and there's going to be lots of problems with it.

**Mr Ron Johnson:** It's important to understand that as much as all three parties agree that it's a good bill, the bill is designed in many respects, coupled with some of the restructuring that we're going to go through, to help solve the very problems that you're talking about: the disbursement of funds to families. You're quite right: There have been many cases where the non-custodial parent has been having the deductions off the payroll but the money hasn't been getting to the custodial parent and the children. That is what this government is committed to working on: fixing those problems.

As much as you're right in that respect, it's important to understand that there are in fact non-custodial parents who are not living up to their responsibilities. This bill, through some of the enforcement measures, will help address that. That's the aim. We would welcome some suggestions to the bill, some amendments and some things that you really think are wrong with it. Give us some ideas with respect to that.

**Mr Tilson:** Thank you for coming. I'm sure if you have any chance with Mr Tsubouchi, he will be pleased to work with you as well.

You've just covered a whole array of major problems that we have with respect to matrimonial disputes. This bill, as Mr Johnson has indicated, deals strictly with enforcement of existing orders. I think at another time it would be more appropriate to talk about those other things you've talked about, but they're excellent suggestions, excellent thoughts you have with respect to how legal costs have become prohibitive, and the issue of access. All these things are crucial, and I believe our government will in due time address those issues. Thank you very much.

**Mr Ramsay:** Thank you very much for coming and I'm glad we were able to accommodate you tonight.

**The Chair:** Thank you very much, sir.

2040

**Mrs Boyd:** Mr Chair, there were a couple of items that we had asked for from the ministry that we haven't got. Mr Tilson read out week-by-week statistics for November, but we had asked for the regular family support plan statistical summary that comes out every month, for June, July and August as well as November. I wonder if we could ask for those to be available to us.

**Mr Tilson:** I don't have it at this time, Mrs Boyd.

**Mrs Boyd:** I wonder if they could be faxed to the committee members' offices tomorrow.

**Mr Tilson:** We can use our best efforts, if it's available, to do that, yes. I don't want to give an undertaking if it's impossible, but if it's available we'll be pleased to do that.

**The Chair:** We'll accept your best efforts at this moment, Mr Tilson.

**Mrs Boyd:** It seemed to me that when the ministry was here on Tuesday, a couple of other things were raised that we asked to have given. I don't have Hansard in front of me so I'm not sure of that, and I wonder if the clerk could help us with whether there were other pieces of information that we had asked to be tabled.

**Mr Tilson:** You're right. I honestly can't recall either. I've just asked the staff, and they're aware of those things. They're still trying to make that information available. I don't know how voluminous that is.

**Mr Goodman:** The two items, if I recall correctly, were some information with respect to provincial-federal discussions, and the other item was with respect to the possibility of payors paying directly to support recipients as opposed to going through the plan. I don't know the status of those, but those are the two items.

**The Chair:** Hopefully, the ministry can either provide that by fax or, if it is too voluminous, present it at 3:30 when we proceed on Monday. That's a little late. We'd like to have it before that if possible.



I remind all members of the committee that amendments to be considered have to be deposited or filed with the clerk by 12 o'clock on Monday, December 9.

**Mrs Boyd:** There was another item, Mr Chair. Throughout this whole business there has been some question about what exactly the plan is, in terms of the office, for getting the computer capacity to do what is required under this act. You'll recall that the minister talked about that in the House as RFPs going out and so on. I think this could be on one page — it doesn't have to be voluminous — just basically what the timetable is: Has an RFP gone out for the technology that's required? When is that RFP to be closed? What are the best estimates — and we always know these are the best estimates that a ministry can give — as to when that equipment will be up and running? At what point do you think the various items of enforcement within this act will in fact go into place? I think there's been some talk about them being in place for January 1. I continue to be concerned that that's unrealistic and I don't think we should be holding that out to people.

It would be very helpful if certainly before third reading and as part of third reading the government could lay that out for people. Otherwise, it seems to me that the plan is going to get suddenly inundated with requests from people who expect this act, once it's put into place, to immediately begin to produce results in 100% of the cases. I don't think that's in anybody's best interests.

**Mr Tilson:** I understand your question. Obviously I can't give any undertaking to the committee, not knowing when this bill is going to receive royal assent, when it's going to be proclaimed, when the guidelines are going to be prepared. The minister has given some indication of when he hopes it will be in order. All I can do is to pass on your request, which is a reasonable request, to the minister and hope he will be in a position at the appropriate time, whenever this bill becomes law, and we don't know that yet. Do we have an agreement between the parties with respect to the third reading?

**Mrs Boyd:** We certainly agreed on before Christmas. It just depends on when the House leader calls it.

**Mr Tilson:** All those things are dependent on the bill passing and proclamation and all that other business. It's difficult to give a precise estimate at this time, but I will pass on your request to the minister.

**Mr Klees:** Mr Chair, if I might ask a question, one of the issues that's been discussed fairly extensively is the matter of the closing of the files. Reference was made earlier today by Ms Martel to the government's statement on the fact that about half of the \$1 billion is uncollectible. I think the assumption was drawn that that \$500 million of uncollectible outstanding support would be deemed by the government as being cases closed. That assumption, I think, was drawn.

I think we need some clarification on that. If that's the case, it will obviously weigh heavily in our discussions around any proposed amendments relating to the closing of files and the authority given the director for that. I

would very much appreciate if we could have from the ministry, first of all, a definition of what is meant by "uncollectible" in the context of that statement, and whether it would be the intention that those uncollectibles be treated as cases that would be closed. I think that would be helpful for our discussions.

**The Chair:** If that can be provided, the request has been made.

**Mr Tilson:** Well, Mr Chairman, normally this sort of discussion would take place during clause-by-clause. It is reasonable for committee members to ask me, and if I can't answer I'll be asking the staff to give the rationale. I will try to give the rationale as best as I can, but as to what exists now and what is being proposed through proposed guidelines, proposed regulations, we'll be prepared to discuss those questions at the appropriate time on Monday.

**Mr Klees:** The reason I'm asking now is to give you some opportunity to prepare for that.

**Mr Tilson:** Knowing the members of the opposition, I know those questions will be coming.

**Ms Martel:** If I might, just on the same point, the minister's comments around this are in Hansard from his speech on second reading. What he actually said was, "According to ministry criteria, it's our belief that some \$500 million is uncollectible." Perhaps the ministry can provide us with the criteria, then, that would lead them to assume that is the case. That's where the reference came from, right out of the second reading debate. He certainly used the words "ministry criteria" in his comments. There has to be some work that's already been done which would lead him to say that in those remarks. We'd like to see what those criteria are and match them against what we see in the bill, because we are nervous that that's where it's coming from.

**Mrs Boyd:** Very often during clause-by-clause, if we ask these questions, particularly when we're under a time limit, as we will be on Monday, we're told, "We don't have that information," and then we are SOL. So I think it is only fair for us to join Mr Klees in really requesting that the ministry —

**Mr Tilson:** We're not like the NDP, Marion. We've never done that. That only happened between 1990 and 1995.

**Mrs Boyd:** We've been sitting on committees with you, David, for the last year and a half.

**The Chair:** We are not here to debate the matter. Mrs Boyd, you are quite correct. We will start at 3:30 on Monday and discussion will take place until 8 o'clock, and at that time, that is the end of any discussion or questions, so anything that could be got to us ahead of time would certainly be looked upon with favour.

We are adjourning until 3:30 on Monday, December 9. I would request that the subcommittee stay for three minutes to deal with two requests for reimbursement of expenses. Thank you very much, ladies and gentlemen.

*The committee adjourned at 2050.*







## STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

**Chair / Président:** Mr Gerry Martiniuk (Cambridge PC)

**Vice-Chair / Vice-Président:** Mr Ron Johnson (Brantford PC)

\*Mrs Marion Boyd (London Centre / -Centre ND)  
Mr Robert Chiarelli (Ottawa West / -Ouest L)  
Mr Sean G. Conway (Renfrew North / -Nord L)  
Mr Ed Doyle (Wentworth East / -Est PC)  
\*Mr Garry J. Guzzo (Ottawa-Rideau PC)  
Mr Tim Hudak (Niagara South / -Sud PC)  
\*Mr Ron Johnson (Brantford PC)  
\*Mr Frank Klees (York-Mackenzie PC)  
\*Mr Gary L. Leadston (Kitchener-Wilmot PC)  
\*Mr Gerry Martiniuk (Cambridge PC)  
Mr John L. Parker (York East / -Est PC)  
\*Mr David Ramsay (Timiskaming L)  
\*Mr David Tilson (Dufferin-Peel PC)  
Mr Bud Wildman (Algoma ND)

*\*In attendance / présents*

**Substitutions present / Membres remplaçants présents:**

Mrs Brenda Elliott (Guelph PC) for Mr Parker  
Ms Shelley Martel (Sudbury East / -Est ND) for Mr Wildman  
Mrs Julia Munro (Durham-York PC) for Mr Hudak  
Mrs Lillian Ross (Hamilton West / -Ouest PC) for Mr Doyle

**Also taking part / Autres participants et participantes:**

Mr Jim Brown (Scarborough West / -Ouest PC)  
Mrs Elinor Caplan (Oriole L)  
Mr David Christopherson (Hamilton Centre / -Centre ND)  
Mr Bruce Crozier (Essex South / -Sud L)

Mr Ken Goodman, legal counsel, Ministry of the Attorney General

**Clerk / Greffier:** Mr Douglas Arnott

**Staff / Personnel:** Ms Susan Swift, research officer, Legislative Research Service



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## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 9 December 1996

# Journal des débats (Hansard)

Lundi 9 décembre 1996

**Standing committee on  
administration of justice**

**Comité permanent de  
l'administration de la justice**

**Family Responsibility  
and Support Arrears  
Enforcement Act, 1996**

**Loi de 1996  
sur les obligations familiales  
et l'exécution des arriérés d'aliments**



Chair: Gerry Martiniuk  
Clerk: Douglas Arnott

Président : Gerry Martiniuk  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Monday 9 December 1996

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Lundi 9 décembre 1996

*The committee met at 1612 in room 228.*FAMILY RESPONSIBILITY  
AND SUPPORT ARREARS  
ENFORCEMENT ACT, 1996

## LOI DE 1996

SUR LES OBLIGATIONS FAMILIALES  
ET L'EXÉCUTION DES ARRIÉRÉS D'ALIMENTS

Consideration of Bill 82, An Act to establish the Family Responsibility Office, protect the interests of children and spouses through the strict enforcement of support orders while offering flexibility to responsible payors and make consequential amendments to certain statutes / Projet de loi 82, Loi créant le Bureau des obligations familiales, visant à protéger les intérêts des enfants et des conjoints grâce à l'exécution rigoureuse des ordonnances alimentaires tout en offrant une certaine souplesse aux payeurs responsables, et apportant des modifications corrélatives à des lois.

**The Chair (Mr Gerry Martiniuk):** I call the meeting to order. We are late in starting due to the proceedings in the House. We are governed by a motion passed by the House which states that there is no debate after 8 o'clock this evening, and for that reason I have requested that the clerk bring our supper into this room, which he will arrange, and you will eat either at your desks or wherever you wish to be.

The first order of business is to pass a motion confirming the report of the subcommittee of Wednesday, December 4, 1996, authorizing the removal of certain file numbers from written submissions given to this committee. May I have a motion to that effect? Thank you, Mr Johnson. Is there any discussion? If not, all those in favour of the subcommittee report? Carried.

Again, just for the purposes of making sure everybody is aware of the order of the House, we are to permit debate until 8 o'clock this evening, and thereafter there will be no debate and each amendment filed with the clerk prior to 12 o'clock today will be dealt with without debate. I remind the committee that the debate is unlimited, and I will recognize individuals not by caucus but by their number on the list and if they wish to speak. We will deal with the bill starting with section 1 and working numerically.

Going to section 1, we have an amendment filed by the third party.

**Mrs Marion Boyd (London Centre):** I move that the definition of "income source" in subsection 1(1) of the bill be amended by adding the following clause:

"(k.1) payments from the employee wage protection program under part XIV.1 of the Employment Standards Act."

I wonder if I could move that when someone makes an amendment, they proceed immediately to give the rationale for the amendment so that we can just move ahead in an orderly fashion.

**The Chair:** I think that makes sense. Thank you, Mrs Boyd.

**Mrs Boyd:** The rationale behind this was to be sure that when employees are subject to the employee wage protection program that the up to \$2,000 that can be given them under that plan would be subject to collection through the family support measures. Counsel for the family support plan have told me that this is more appropriately put under the garnishment sections and that it is not necessary to have this particular subsection. Since they indicate to us that it is part of the section under garnishment, I am going to withdraw this motion.

**The Chair:** The amendment is withdrawn. Thank you, Mrs Boyd.

Mr Ramsay, I understand that the opposition has an amendment to subsection 1(4).

**Mr David Ramsay (Timiskaming):** Yes.

**The Chair:** All members of the committee should have received a bundle setting out the approximately 90 amendments, and they are numbered consecutively. For the purposes of the record, I will refer to the amendments in their numeric order. We are dealing with amendment 2. Mr Ramsay.

**Mr Ramsay:** I move that section 1 of the bill be amended by adding following subsection:

"Same — default

"(4) If a payor fails to make a payment under a support order on the day the payment is due, the payor is in default under the support order as of the following day."

The reason I have moved this definition in the definition part of the bill is that in many parts of the bill default is mentioned but there is no clear definition of what default is. Because of the nature of this bill and the urgent need to pursue deadbeat dads who are in default, we wanted to have a clear definition that would delineate what default means through this time line, meaning the following day, so that the office could pursue this so the payee could get her money as soon as possible.

**Mr David Tilson (Dufferin-Peel):** I have been advised that under existing law this definition Mr Ramsay has put forward in his amendment is already the definition of default. It's therefore the position of the government that



this motion is redundant and doesn't add anything to help the situation.

**The Chair:** I'm sorry, Mr Tilson, is that under case law, I take it, that definition?

**Mr Tilson:** I believe it's under common law, yes.

**Mr Ramsay:** I'll accept that.

**The Chair:** Do you wish to withdraw it or shall we vote on it, Mr Ramsay?

**Mr Ramsay:** I'll withdraw it.

**The Chair:** Mr Ramsay's motion is withdrawn. We now have section 1 without amendment. Is there any discussion in regard to section 1 as it stands, not with any amendments?

**Mr Tim Hudak (Niagara South):** That's a good section.

**The Chair:** Thank you. If there is no further discussion, all those in favour of section 1, unamended? All those against? It is carried.

Moving on to section 2, shall section 2 pass? Is there any discussion? There are no amendments. Carried.

Moving on to section 3, the government has an amendment.

**Mr Tilson:** I move that subsection 3(3) of the bill be struck out.

The section designates enforcement officers of the Family Responsibility Office as clerks of the court for the purposes of signing and issuing specific enforcement documents. The rationale for the government-proposed amendment is that in consultation with the judiciary the concern was raised by the judiciary with respect to this subsection. To address these concerns put forward by the judiciary, this motion would remove the designation of Family Responsibility Office staff as clerks of the court. The ministry staff would continue, in consultation with the bench and the court, to work out an administrative method for replacing the large volume of enforcement documents from the Family Responsibility Office.

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**Mrs Boyd:** I'm just curious, then, would you be anticipating, once you work this out, that you would want to bring in an amendment to this act to specify that, or how in fact would that arrangement that you plan to make with the court be made appropriate?

**Mr Tilson:** Mrs Boyd, I'm advised and I don't think that it would require an amendment. I think the existing law would enable the staff to do what is being proposed.

**Mrs Boyd:** I understood when we were talking about this at some point during the discussion on the first day this committee met that the explanation around this was to make the flow of documents go more quickly, that it was to expedite the flow of documents. We all know about the really serious problem in the courts and the delays that are caused because of volume and so on. It seems to me you're going to have to resolve that issue some way, and it feels rather odd not to have that resolution come to before you bring this bill forward.

**Mr Tilson:** If you want further clarification —

**Mr Ken Goodman:** We are working with the courts administration for the issuing of the documentation, and we don't think we need to make any amendments. If there were, it would be with the rules of the court; it wouldn't be with any statute with respect to the issuing

of documents. We wouldn't need a further legislative change to our legislation for that purpose.

**Mrs Boyd:** You mean an amendment in the family rules?

**Mr Goodman:** It would only deal with the section of the rules which deals with the issuing of documents. We do not believe we need an amendment to that, but we're still working with the courts administration and the bench as to the best method of issuing our documentation.

**Mrs Boyd:** Good luck.

**The Chair:** Does that answer your question? I don't know why it was in in the first place if we don't need it.

**Mrs Boyd:** Exactly, and there was some point made about how important it was in order to expedite this whole act. It is very confusing if in the time between the time this act was introduced on October 2 and now there hasn't been a more thorough discussion about how this is actually going to be administered in an appropriate way. It's rather disappointing, to say the least.

**Mr Garry J. Guzzo (Ottawa-Rideau):** I support the position, but I want to make a comment that I find the reference to the consultation with the judiciary somewhat troubling. What is the judiciary's role in prejudging the document that we are dealing with at the present time?

I just want to go on record as stating that I find it offensive to have the judiciary involved, particularly in a subject that deals with the administrative arm, but even at the point of the sections that deal with enforcement or punishment. I don't find that an appropriate role for the judiciary. I don't know where they find the jurisdiction to do so. I know it has gone on in the past and will probably go on in the future. I'd just like to make those comments and indicate that the source has nothing to do with my support for the position.

**Mr Tilson:** Just to clarify, and I was the one who used the words "in consultation with the judiciary," it was representatives from the judiciary that contacted the Attorney General's office. We didn't seek out their advice; they felt obliged to provide their comments. The president of the family law association made comments as well.

**Mr Guzzo:** Just let me clarify. I don't care who sought out whom. I'm criticizing the judiciary for taking this step. I appreciate and I've experienced the feelings that sometimes do interject, but if you read this section with section 4 of the act, you really envisage a difficulty developing. Now I think we've cured it to some extent if we pass this amendment, but I harken back. We're always going to hear the argument from the judiciary about preserving the independence of the judiciary. Here's how the independence of the judiciary is devalued. How are you going to try and hold a person up as an independent arbiter when they've already expressed an opinion with regard to the legislation before it's been passed?

I don't think it's any role for the judiciary, and it matters not whether we sought out their opinion or they volunteered it.

**The Chair:** Is there any further discussion before I put the question on the amendment to subsection 3(3)? If not, all those in favour of the amendment? All those against? Carried.

We're moving on to section 4. The first amendment is proposed by the third party, number 4 of your package.

*Interjection.*

**The Chair:** I did not pass section 3. Thank you. We now are considering all of section 3, as amended. Is there any discussion in regard to section 3? If not, all those in favour? All those against? Carried.

Now we will move to section 4. Mrs Boyd.

**Mrs Boyd:** I move that subsection 4(1) of the bill be struck out and the following substituted:

"Assignment of director's powers etc

"4(1) The Attorney General may, subject to the approval of the Lieutenant Governor in Council, assign to any person in the employ of the Family Responsibility Office any of the powers, duties or functions of the director under this act, subject to the limitations, conditions and requirements set out in the assignment."

The purpose of the amendment is to get around a difficulty that we encountered on at least one occasion, and I rather suspect twice, under the previous law where the director was not available, was either taking a leave of absence or was in some other circumstance and we found ourselves unable to have the powers of the director to be assigned to someone else. I think that is an important change. When that sort of situation happens, there has to be some mechanism whereby, without appointing a new director of the Family Responsibility Office, you can have those duties assigned for whatever period of time.

I would think that would be appropriate, but it obviously is quite a different notion of assignment than is included in the act as it stands because it clearly limits it to an assignment to someone else who is a civil servant in the employ of the government, subject to all the privacy conditions of the government and definitely under a Lieutenant Governor in Council order.

**Mr Tilson:** Section 4, as it now reads, authorizes the Attorney General to assign any power, duty or function of the director to the private sector. I suspect this is one of the major philosophical differences between the New Democratic caucus and the government caucus.

As we understand at least the comments made by Ms Martel and Mrs Boyd, the NDP doesn't want any of the director's powers assigned to the private sector and they've made that point perfectly clear. They seem to be suggesting, and I think Mrs Boyd has just confirmed, that the legislation give the program the authority to assign powers to the family support staff and that the program be able to charge the payor collection fees. I believe that's what she's saying, although it's not clear in her amendment and she may wish to clarify that.

As I said, this amendment is completely contrary to the government's political philosophy, because the assignment of power in section 4 fulfils the Common Sense Revolution commitment to review all core businesses and to enter into partnerships with the private sector where it can provide services more effectively and efficiently.

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Section 4 as it now reads means that the program will be able to use any external resources that will support the achievement of the Attorney General's agenda, which is to maximize the support order payments that go to women and children. This could — it may not necessar-

ily — include a private sector partnership to collect arrears. I know both Ms Martel and Mrs Boyd have indicated they're strongly against that philosophy, so for that reason we will be opposing this proposed amendment.

**Ms Shelley Martel (Sudbury East):** It's not only a question of partnership; it's a question of what's in the business plan in two and three years' time. What was clearly referenced in the business plan was an effort by this government to privatize the functions of the family support plan. You are quite correct that we are absolutely opposed to that.

I'd also point out some of the other folks who came before this committee who raised some serious concerns around the whole notion of privatization as well, both from the aspect of a private sector agency being able to make money off of the backs of women and children, money they are legally entitled to by a court order and, second, some concerns around the collection and the maintaining of people's documents. There were a number of people who spoke against it, and I'll just reference some of them.

Curtis and the SOS group: "Enforcement of family support orders should remain a government responsibility. Private collection agencies will have a greater incentive not to enforce difficult cases by using the powers under section 7 and thereby reduce their administrative costs."

Mills: "Reconsider this position. It's not clear how privatization will improve the plan with the implementation of user fees and threatening confidentiality."

Finally, there are some others, but CBAO: "There is no proof of the benefit of involving the private sector in enforcing support orders. There is a concern that the power to delegate the director's powers, including the exercise of discretionary powers, is overly broad."

Some other individual recipients also again talked about the fact that a collection agency or the Royal Bank or any other agency that the government envisions offloading this particular agency to will make money that is money that should legally go directly to the recipients and their families.

We are very concerned about what we see in the business plan, which is very clearly a move to privatization, and section 4 allows that to occur. Yes, we are very much opposed to it. We believe that with the added enforcement mechanisms that are contained in this bill, with some other changes around the director's discretion, for example, in section 7, which we have large concerns with, and some changes around opting out, the plan will be in a position to get at the difficult arrears situation that has been in place since the plan began, both under SCOE and then under the family support plan, and there will be many new sorts of mechanisms, unlimited sorts of mechanisms, to allow that to occur.

What we really feel is that where you are heading with this particular section is that you are setting the foundation, the groundwork, for the privatization, which we don't believe at the end of the day will be in the best interests of either the clients of the plan, the payors or, frankly, the employees who have just been hired to replace the 290 who were laid off and who, if the business plan is correct, will be in that position for two



or three years and then may well be out the door because there will be no guarantee that successor rights will apply. In fact, they probably won't, under provisions we've already seen in Bill 26.

**Mr Tilson:** We could go on and on debating our philosophical differences, and that's your right to do that. There was one woman as well who made a comment that she didn't care how the arrears are collected, as long as they're collected. If the family support plan isn't collecting it or is unable to collect it, it may be that someone else should be able to collect it, if they indicate that they can do that. If there are parts of the plan that someone else can do better than the family support plan, obviously the government should look at that.

I think in a responsible position, you just don't take it because the family support people are the only people who can do it. Yes, this section does allow for it. It may be that all, it may be that some, it may be that none of this system may be privatized. Obviously the government will take a long, hard look at certain parts of it. But if there are accounts, for example, that have serious problems with collection or if it's been a long, long time, if the government's been getting nowhere, it may well be that, as opposed to getting nothing, someone else could take a stab at it. That is the rationale for this philosophy.

I know you will never in a million years agree with us. We can sit till the cows come home, because we've had this out many times before.

**Mrs Boyd:** First of all, I want to correct my own record and thank Mr Tilson for pointing it out. He is quite right: The motion should actually read, "I move that subsection (4) of the bill be struck out." You're quite right; that is what that meant, not 4(1), and then just a replacement of 4(1) by the motion that's in front of us. So thank you for pointing that out; I appreciate it.

The second piece is that, yes, there was one person who said she didn't care how she got the money, as long as she got it, at which point, as I recall, there was a discussion with the member for Ottawa-Rideau, who said, "Wouldn't it be worth it to you, if there were \$60,000 outstanding, that 30% of that went to a bounty hunter to collect your money?" Our point is that, yes, there are collection agencies that for a fee — and I think 30% is very similar to what we see in some of the collection agencies; it can go higher. That money belongs to the children; the 30% of the \$60,000 belongs to the children.

What this government is contemplating is complete privatization of this plan. It's in the business plan. It's been made public in the business plan. It is very clear that part of the impetus behind that kind of privatization is to collect long-overdue arrears by using those who will go out and do that for a portion of the collected amount. That may be appropriate for private industry; it may be appropriate in some cases where there is a debt owed to an individual and they're used to collecting, say, 70 cents on the dollar. That is not appropriate in a case like this where the government has made a very big deal out of its emphasis on the responsibility of payor parents to fulfil their responsibility. What this means is that all of us are giving up, in the case mentioned, 30 cents on the dollar of what those children ought to have got. It isn't appropriate, it seems to me, for us to be taking that action in these circumstances.

It is very, very clear from the business plan that the government intends to completely privatize this. This is permissive legislation that enables them to do what they have already set out in the plan that was accepted last January for the Attorney General's ministry. The reality is not just some hypothetical, "Maybe we'll do this some time and maybe we won't," or, "Maybe it'll be part of it and maybe it won't." It is part of the business plan on which this government is basing its actions and which this bill is here to enable. We ought not to be mincing words about the reality here. Yes, there's a large philosophical difference, and that philosophical difference is very much rooted in whose money this is. The money is money that is owed to children for their support by a parent.

**Mr Tilson:** Ms Boyd, you are quite right. The way the bill reads, that's the way it sounds. I'm probably out of order in referring to it, but in the next government motion we are indicating, on page 2 of that motion, subsection (5) specifically, that those costs that you speak of wouldn't be taken off the amount that's owing to the recipient. They would be added on to the amount of arrears that's owing by the payor. I know that doesn't make you feel better, but to say that it's coming off the amount that's to be received by the recipient if the subsequent amendment carries, that will not be.

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**Mr Guzzo:** I wanted to make that same point. This might not be tasteful to many of us. I asked the question, as the member for London Centre suggested, for a purpose, because it's important to understand the feelings and the nature of the beast with which we're dealing here. Had that been a businessman, somebody in business for 20 years, who had been through the mill — particularly in recent years in the economic recession every businessman in my area, and every professional to a certain extent, except the doctors, of course, has resorted to, I suppose, some form of collection agency from time to time, and as the member stated, 30% isn't unreasonable.

The issue is, when the children realize only \$40,000 of the \$60,000 in the example I used, what happens to that other \$20,000? Has it disappeared or is it still owed? I can tell you now that in a lot of the courts, when it would be returned, on the basis of this legislation many of the judges would take the position: "You've got a receipt for paying \$60,000. You owed \$60,000 and there's nothing else owing." It has to be 100% clear that there's no discretion in the bench at that particular point in time. The fact is that they've paid \$60,000 and the costs of collecting are reasonable, and when are they going to be reasonable? They're going to be based on the circumstances surrounding this. You can't farm everything out.

But after a certain age, an account has been dormant for some period of time, the person can't be located, notwithstanding all of the facilities at the hands of the provincial government in terms of tracing people — it should be the best source of trying to locate people, but in many cases it isn't — the private bill collector, sometimes utilizing a private detective, can locate. That's when some of these massive recoveries are made.

I share the concern of the member for London Centre. I'm just of the opinion that it has to be spelled out, and



very clearly, that there's no discretion. The fact is that those costs have been incurred, they were reasonably incurred in light of the difficulties that the plan had encountered in trying to enforce under the normal circumstances, and the 30% or 25% that has been paid out is the responsibility of the payor, and there's still, in my example, \$20,000 due and owing, and the judge is then obligated to enforce the collection of that amount of money.

You know better than most people sitting around here that there are cases — I hope there are not many — where we have to go outside the powers and the operation that we have at the present time. Interestingly enough, when you talk about an international traveller from Paris to Miami etc, such as that individual addressed, that's the type of person we are not going to be successful in collecting from. I think there would be very, very few.

But as long as it's clear, as long as it's spelled out that this is the obligation and that the debt is not extinguished in light of the reasonableness of the costs incurred, I think we're protecting the children more securely by doing that than by refusing to allow the use of a private operator.

**Mr Ron Johnson (Brantford):** I'll actually be very brief. Mr Guzzo said a number of things that I happen to agree with. As well, Mr Tilson made a good point: When you look at the cases where FSP has been unsuccessful, perhaps it is time to look at alternatives. That's what this is. Although it is somewhat permissive legislation to allow us to move in that direction, it's consistent with what we've planned in the past as well. We've talked about building partnerships with the private sector, and it's enabling legislation that builds on those partnerships. At the same time, it's important to understand too that if the next amendment passes the fees used to attain collection through the private sector will be attributed to the arrears. That's a very clear indication that the money belongs to the women and children; we recognize that. I don't think the government of Ontario is necessarily the best bill collector in the province. In some cases we need to look at alternatives, and that's what this provides us with. It's just an alternative.

**Mrs Boyd:** I would suggest that a much wiser course would have been to put in place, in an appropriate way, the enforcement provisions that are included in this bill, which we've already indicated we are prepared to support, and see how those work. This has been an incremental process. When the Liberals put their plan in, in 1987, it was unheard of to go after these dollars the way that plan suggested. They broke ground and found out that there were some problems with that plan. We changed it and we found that there continued to be some problems.

These enforcement measures have been suggested by the employees of the plan as ways to deal with this problem. We do not know what the effect of these enforcement measures will be. I sincerely hope that they come even a quarter of the way to meeting the expectations that some of the people who came in front of us had. I worry in a lot of ways that the effect may not be as strong as a lot of our deputants wanted it to be and as we would want it to be ourselves.

It seems to me that you do this in incremental phases. We can think of the individual cases that these people brought before us. We do not know whether the enforcement measures in this act would flush out that money or not. Many of the deputants thought it would. The reality is that what we're doing here is much broader than improving the enforcement of family support. What we are doing is passing a permission to hand this function, with all of its sensitive information and all of its very sensitive interrelationship with recipients and payors, over to a private enterprise.

This is not hypothetical. It's very clear in the business plan of the ministry that this is the plan. It is very clear from the proposals that have already come in from operations like the Royal Bank and Unisys that this plan is well along. This is not a paranoid fantasy of the member for London Centre; this is part of the work that's actually been done by the ministry. Let's not, when we talk about this, pretend that this is anything other than what it is. This section allows the government to hand over these very sensitive operations to the Royal Bank. What we're seeing here is a blanket permission for whatever group — and the Royal Bank is the one it is most likely going to be — to charge any kind of fee that they want now to the payor.

I'd much rather see the payor pay under these circumstances, because a payor who is able to pay and doesn't pay is the bane of the existence of all of us, and we all agree with that, but if you think our example, the \$60,000 that is owed by a person who is sheltering his property under a sister-in-law and a parent, is going to be got at by the enforcement measures here — that was the example where we were talking about these fees — how reasonable is it for us to assume that if we hand this over to collection agencies that charge 30% or 40% in order to get it, you're ever going to collect that 30% or 40% over and above the amount that's owed? It is holding out false hope to people if you think that's what you're really going to be able to accomplish. It is not appropriate to do that until these other enforcement measures have been tried.

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I would suspect that a bill like this is going to have to be revised every four to five years. The ingenuity of those who try to avoid their family responsibility is just unbelievable. We know the extent to which people will go to avoid paying their support. When all of this gets put into place and it's tested out through the courts and we see whether it will work, there will come a day, five, six years from now, where we'll all be — some of us anyway — around a table looking at another bill that fills the gaps that this bill doesn't fill, because we will have learned more and payors will have learned more about how to evade.

All we are saying is, why don't you try, why don't you see what the family support plan could do with these enforcement measures before you make up your mind that the private sector can do it better? The problems that the family support plan had in collecting the arrears was because it didn't have these tools. They outlined what they needed. That's been there for a while. All of these changes in enforcement are based on the experience of



the plan and what might have worked. To also give yourself, in the same bill where you're giving the family support plan those tools, permission to do what you always intended to do, the privatization of the plan, I find very offensive.

**Mr Ron Johnson:** I want to respond briefly to a point that was made by the member. We saw in this committee some presentations from women, many of whom I found were from very affluent past marriages, whose ex-husbands were doing very well in the private sector or otherwise, and who had in some cases been wives of very large business people who have done very well but who have been able to shelter, been able to hide from the family support plan. To assume that a private sector collector couldn't get 30% more than the arrears when it's added on, or 25%, whatever the fee happened to be — maybe we have to look at some of the profiles of the cases that may go to a private investigator, an investigator who may see \$60,000 in arrears and then ultimately may decide that they can attain that through the collection. I've got to tell you, the resources that they have at their disposal for collection are far greater than the family support plan has, in terms of the investigators and that sort of thing.

When you look at the types of families we saw here, and the types of cases presented to us, I think that it's feasible and I think that we can probably expect to see — in some of those cases, of course, not all of them — that the private sector may help us a great deal in tracking these people down and really work through the legal mess that we would have to go through as a family support plan to try and straighten that out and collect the fees. They'd probably be fairly successful at it, if I could hazard a guess.

But of course you're right, we don't know, and I don't think we're going to know until this happens. That's important to recognize. I don't think the expectation of the government is to run out when this bill is passed and pass everything over to the private sector. It's going to be used only in cases where it needs to be used, when all else fails. In doing so, I think we're going to see that there may be some success as a result.

**Ms Martel:** I wish that was the case and I wish all we were dealing with right now in this section was an issue of getting some help from the private sector to help with some very difficult cases that have not been enforced for 10, 15, 20, however many years. But when I go back and think about what is in the business plan, I have to say to you that I do not believe that what we are seeing here is just a tool for the government to enter into a partnership with the Royal Bank or some other agency to get some additional funds that the government doesn't believe will be gotten even with the new enforcement tools.

The business plan is really clear, folks. It's very clear. In two to three years, the direction of the Attorney General will be to have a private sector agency — I assume it's going to be the Royal Bank because we already know the Royal Bank has proposals in to the government to run the whole plan — the government will offload the entire family support plan to someone in the private sector, some agency, some organization.

That's what we see in section 4. Re-read section 4. It's very clear: "The Attorney General may...assign to any

person, agency, body, or class thereof, any of the powers, duties or functions of the director under this act." Take that and take what you see in the business plan and recognize that what we are dealing with is the enabling provision right here, right now, that's going to allow the Attorney General to do that in two or three years, as is clearly envisioned in the business plan. I sat and listened to my colleague, in her speech on second reading debate on this, outline the provisions from the business plan that talked about that. They're very clear. That's the direction that's being taken.

What we're asking the government members to consider, I believe, is the following: Do you believe there is a role for government in ensuring that women and children who are owed money in this province get it? Do you believe that, yes or no? That's what we're asking you to consider.

**Mr Ron Johnson:** That's not what you're asking at all.

**Ms Martel:** Of course we are, because it's very clear to me and it's very clear as you read the business plan that where the Attorney General wants to be in two to three years is out of this business completely.

**Mr Ron Johnson:** That's a leap.

**Ms Martel:** He does not foresee the public sector having any role, having any involvement in these enforcement mechanisms. It will be handed over to the private sector. I ask you, Mr Johnson, just to read the business plan. That's all you have to do. It's very clear that's where he's heading, and he sets out the time line of two or three years in that business plan.

What we're saying here is that for the first time, in 1987, despite the problems with support and custody, a government recognized there was a public role to play, a very important public role to play. Despite the problems, that continued under us and we made some more incremental changes to try and get at the problem of arrears, which continues to be a problem. I don't doubt that; we all know that. We heard that from people who were here. But clearly where we're coming from is our belief that there is a significant role for the provincial government in this province to play in this plan.

The Attorney General's own business case said that our plan was the most cost-efficient of any of the other jurisdictions. I think that's something to be proud of. With the enforcement mechanisms envisioned in this legislation we can build on that, but clearly what I'm asking you to consider today is whether or not you believe the public should be served by the government ensuring that it continues to have a role to play, that it continues to believe that support payments and the enforcement of the same and making sure those get into the hands of family is a role that the government should be involved in and not one that should be offloaded entirely on to the private sector. Because clearly, when you look at the business case, and that's all I ask you to do, you will see that the Attorney General has made it clear that's the direction he wants to head in. He wants the plan to be offloaded on to another agency, no doubt the Royal Bank, but certainly another agency.

This section 4, which allows the delegation of any powers of the director to any person, agency or body, is



the piece of the enabling legislation that will allow him to do that two or three years from now without ever having to return to the assembly to have this debate again.

**Mr Frank Klees (York-Mackenzie):** Just to speak to the point Ms Martel made, I don't think there's any doubt at all that this government believes it has a role to play, to use your words, in "ensuring" that these matters are looked after, but I think there's a clear difference between ensuring that something is done and doing it. What we're saying is that there is a clear role for government to ensure that it's done, and that's where compliance comes in, but we're not convinced it's necessarily the role of government to actually be in the business of doing it. I think that's where the difference is.

**Mr Tilson:** I just want to emphasize what the government is intending to do. The government is certainly going to look at privatization; otherwise this section wouldn't be here. As I said before, it may be all of it, it may be part of it, it may be none of it. We're not going to just go into it for the sake of going into it. Just as your government looked at the issue of privatization — I mean, with respect to the collection system, you're the ones who started the negotiations going with the Royal Bank. We haven't thought up something new. The whole idea of the Royal Bank processing the collection didn't come from us. That came from the NDP government.

To say that we're going to tomorrow, or whenever this bill finally becomes law, privatize the whole system just isn't the case. That's what you're suggesting. I'm simply saying that we're going to look at everything. Obviously if someone else can do it better, more efficiently — I'm starting to repeat myself — we're going to look at it.

1700

**Mrs Boyd:** The member is absolutely right that with the collection functions we were in partnership with the Royal Bank in this case and would have extended that. I don't think there's any question about that because this whole issue of putting things on to an automatic withdrawal from an account, automatic deposit and so on was well under way when you took over and we felt that was very appropriate, but it would always be under the direction and clearly under the responsibility of the Ontario government in our vision.

What you are saying in subsection 4(1) is that not only can the person who is appointed hand over those kinds of administrative functions, and that's what they were, to the private sector, but they can "assign to any person, agency or body, or class thereof, any of the powers, duties and functions of the director under this act, subject to the limitations, conditions and requirements set out in the assignment," and of course we don't know what the assignment would be, so that gives cold comfort.

The reality is that what we are doing in the rest of this act is giving very extensive powers to the Family Responsibility Office: powers to withdraw people's drivers' licences, to withdraw permits for vehicles, to take action against joint bank accounts and so on. Those provisions, to my surprise, did not get as much rational argument against them as I would have expected us to hear in this room. I would have expected us to hear reasoned arguments about the infringements on people's

personal rights that were involved in some of those enforcement measures. I'm sure a court will hear those from lawyers as this goes on.

We are conveying — and we will agree with this; we are not opposing — a huge amount of power to the Family Responsibility Office. What we are saying is that when you convey that kind of power and that kind of access to private information, that kind of access to the ability of people to make their living, to manage their lives, you want to be sure you retain control of that power. Under this act, the way it is worded, you haven't got that assurance.

You do not know at this point how much of the power and how many of the jobs might be handed over to the private sector, and there is no sense of what you would do to maintain accountability. If you sign a 10-year agreement with the Royal Bank and Unisys to do this plan and you don't like the way it's carried out, you get complaints in your constituency office, you're going to find yourself in court over a contract.

The reality is and what we're saying here is that this is too great an assignment of powers. It does not give the government of Ontario enough accountability measures to ensure that this very substantial amount of power that's involved in collecting these dollars is not going to be abused. I'm not saying it will be; I'm saying you have to maintain an accountability process that this section does not allow you to maintain. That's where our disagreement with it comes from.

**The Chair:** Are there any further questions or comments before I put the question? If not, the amendment has been corrected to remove section 4 and insert a new section 4.

All those in favour of Mrs Boyd's amendment?

**Mrs Boyd:** A recorded vote, Mr Chair.

**The Chair:** A recorded vote is requested.

**Ayes**

Boyd, Martel.

**Nays**

Doyle, Guzzo, Hudak, Ron Johnson, Klees, Parker, Tilson.

**The Chair:** The amendment is lost. We are now proceeding to item 5. I've asked the clerk and he has given me his opinion that, unfortunately, until 8 o'clock at any rate, we have to read in the actual amendments even though it takes a little bit of time, so I'd ask you to proceed, Mr Tilson.

**Mr Tilson:** I move that subsection 4(3) of the bill be struck out and the following substituted:

"Fees, etc

"(3) An assignee may, subject to any regulation made under clause 63(i.1), set out the fees, costs, disbursements, surcharges and other charges that the assignee may charge to the payor, or a method for determining them, how and when they may be collected, and may exempt the assignee from clause 22(a) of the Collection Agencies Act.

"Same

"(4) An assignee may charge fees, costs, disbursements, surcharges and other charges as set out in the



assignment and such fees, costs, disbursements, surcharges and other charges may,

"(a) be in respect of services for which the director may not charge anything;

"(b) be higher than a fee, cost, disbursement, surcharge or other charge that the director is permitted to charge for the same service; and

"(c) be applied in a manner other than that provided in section 57.

"Same

"(5) Any fees, costs, disbursements, surcharges or other charges charged by an assignee must be charged to the payor and may be added to the amount of arrears owing by the payor and may be collected in like manner as arrears.

"Interest

"(6) For the purposes of subsections (3), (4) and (5), 'other charges' includes interest at a rate prescribed by regulation."

This is the motion that I referred to in the debate on the previous motion of the New Democratic caucus. This section 4, as we have indicated in the debate previously, provides the authority to consider other options to collect support by permitting the Attorney General to assign any power, duty or function of the director.

Concern has been raised about the operation of this section, in particular that the recipients — we're starting to repeat the debate that we had formerly — may be forced to bear the cost of alternative methods of collection. So this motion is to amend 4(3) by specifying that the fees, costs, disbursements, surcharges and other charges that may be charged by an assignee are paid by the payor and not by the recipient. This amendment also stipulates that the charges may be collected as support arrears.

**The Chair:** Thank you, Mr Tilson. Is there any discussion regarding the amendment? If not, all those in favour of the amendment? All those against? Carried.

Mr Tilson, item 7 of your package.

**Mr Tilson:** I move that section 4 of the bill be amended by adding the following subsection:

"Use of information restricted

"(7) An assignee shall not use or disclose the information it has collected in carrying out any power, duty or function assigned to the assignee under subsection (1) except for the purposes of this act."

Again, this is a continuation of what the purpose of section 4 is, providing further options for the government to collect support. This amendment is in response to the concerns raised by the Information and Privacy Commissioner with the use and disclosure of information collected by an assignee under section 4. This new subsection states that the assignee can only use the information collected for the purposes of the act.

1710

Section 52 provides sanctions if an assignee, a director, officer, employee or agent of an assignee contravenes the provisions of the act. As a result of the combined effect of subsection 4(7), the one in this motion, and section 52, if any assignee should use information for any purpose other than carrying out the assigned duties under the act, they are liable to a fine up to \$10,000.

**Mrs Boyd:** The only issue that arises is around whether an assignee becomes a public servant as defined in section 122 of the Criminal Code, in the breach of trust sections — just a little something to think about.

**Mr Tilson:** We're talking about this bill, and as a provincial act it's a provincial offence. I can't comment on whether something contravenes the Criminal Code of Canada. I can say what contravenes the provincial legislation, which is what this amendment is trying to do. If you're asking for a legal opinion, I can't give you one. I can only comment directly on the provincial —

**Mrs Boyd:** I appreciate that. Anyone who is dealing with the kinds of financial circumstances and financial issues that are being dealt with when we talk about looking at the assets and liabilities of a person, when we look at their income and that sort of thing, becomes privy to a lot of information which, should it be used for their own gain, whether that be financial or political or whatever else, could be seen as a breach of trust if they are defined as a public servant. That's how section 122 of the code works.

The situation here is, and this is the question: Would you see your assignment as conferring on to a private agency the position of a public servant under this act so that if someone were to breach trust under this, they could also be looked at as having committed a criminal offence?

**Mr Tilson:** When I read section 4, my immediate reaction is that the answer to that is yes, but I'm reluctant to give that because you're asking for a legal opinion, and I don't know whether I'm able to do that. Although we have lawyers all over the place here, I don't know whether we're able to provide an opinion on whether a specific provision of the Criminal Code has been contravened. I don't know that.

If you're asking, "Have the obligations and duties and responsibilities of a government official been assigned to a private agency?" yes, they have. That's what the section says, so my immediate answer is yes, but I qualify it: That obviously would have to be clarified by someone who's aware of that provision of the Criminal Code.

**Mrs Boyd:** I have every confidence that this section of the code will be looked at with great interest over the next few days, and at some point before third reading you may well have some information about whether or not this would convey that status on somebody. I would appreciate it, if you get that information, whichever way it goes, if you would let us know whether that is correct.

It never arises, of course, if this is being done by people who are part of the civil service of Ontario, because obviously their fiduciary responsibility under their status as a public servant is clear. It's when you start to assign these tasks outside of the direct public service, or contractually under the indirect public service, that you begin to get into this kind of difficulty, and I think it is an issue because of the sensitivity of the financial information that's there. One of the things that surprised me in our hearings was that we didn't have more payors coming forward to talk to us about their vision of the invasion of privacy that this act might do.

We have had from the payors' side the ongoing concerns raised by groups that are more concerned with



access and custody than they are around the issues of the privacy of their financial information, although I'm sure that wouldn't be true of some of the examples of payors that were raised in our hearings by recipients, and we can all imagine that.

Far be it from me to be the one speaking on behalf of those delinquent payors, but it strikes me as a concern I would have if — I don't think a \$10,000 breach, under your penalties section, would necessarily be sufficient to prevent someone from using the information they gained about private stock and private property and the sale of that or the potential sale of that in the long run if there isn't some other protection. Certainly the sections of the act that cover fraud and conspiracy for fraud are hard to apply. It's just a worry.

**Mr Tilson:** I don't know whether I can add anything more to what I've already said, that the intention of the section is for the agency to be in the shoes of the government. It's a legitimate question, and I guess the only thing I can do, Mrs Boyd, is to ask the staff to look into that legal question. The \$10,000 figure, as I understand it, came through discussions with the commissioner. I don't know whether there's any magic to that, but that's where the figure came from.

**Mrs Boyd:** It's the usual one. I wouldn't disagree that as an offence under the privacy act that would be appropriate.

**The Chair:** If there's no other discussion, I put the question. Shall the amendment pass? All those in favour? All those against? The amendment is carried.

Shall section 4, as amended, pass? All those in favour? All those against? Carried.

There are no amendments to sections 5 and 6. I'll put them both together. Are there any comments? No. Shall sections 5 and 6 carry? Carried.

Section 7: Mr Ramsay has the first amendment on page 8 of your brief.

**Mr Ramsay:** I move that subsections 7(1), (2) and (3) of the bill be struck out.

We're talking here about a program that enforces a court order, and that a judge, after a hearing and giving due deliberation to what she or he has heard at that hearing, brings down an order. It's the obligation of this program to enforce that order. In looking at section 7, the various reasons why the director is empowered here to refuse to enforce a support order I don't think are sufficient to overrule what the judge had decided.

I think the court order should always be supreme, and even though there may be difficult and extenuating circumstances from time to time as to why it might be difficult to enforce that order, it has to remain the duty of the program to seek compensation for the children.

1720

**Mr Tilson:** This issue of section 7 received great comment by members of the opposition in particular during the hearings, and I expect we will today as well. The government is opposing this amendment on the grounds that the Family Responsibility Office must be able to refocus its resources on recipients it's able to help rather than dictating them to cases where enforcement is unable to be carried out or where it's unreasonable or impractical to carry it out.

We're not talking about statistics but about the beneficial allocation of resources. The cases will only be closed after all exhaustive efforts have taken place over a period of time, during which time the case will be reviewed more than once. Cases have to be closed as opposed to suspended — I know that's a major concern particularly of Ms Martel and Ms Boyd — so that recipients are free to enforce on their own, if they choose. That is the rationale for that.

Recipients are free, as I've stated several times during the public part of the hearings, to come back into the program at any time or times if a case has been closed under section 7. The Family Responsibility Office will be able to reopen this case easily if new information is obtained by the family support people, by the recipient, by anyone.

On that basis, the government will not support this motion.

**The Chair:** Is there any more discussion regarding Mr Ramsay's motion? If not all those in favour? All those against? The amendment is lost.

We'll move on to item 9 of your brief.

**Mrs Boyd:** I move that the portion of subsection 7(1) that precedes the clauses be struck out and that the following be substituted:

"Director may suspend enforcement

"7(1) The director may, at any time, suspend the enforcement of a support order or of a support deduction order that is filed in the director's office if, and only if," then it goes on. There are other amendments, but that is the preamble.

The rationale is that when the Attorney General came before us, he talked about the various reasons why something might be unenforceable and said this is something the plan does. The plan "suspends" enforcement, which is very different from "refusing" to enforce a support order. The language here, "may at any time refuse to enforce a support order," changes the entire nature of the family support plan.

It gives power to the director of this plan, and because of section 4, which has already been passed to anybody that director assigns powers to, to overturn the ruling of a judge made in the court. It is completely inappropriate for us to create legislation that gives any official the power to refuse to enforce an order of the court, absolutely inappropriate for this Legislature to ever take that action, but I'm quite convinced by the representations of the ministry that there are situations in which the enforcement measures that the plan has at its disposal should not be brought to bear at every moment on every order because there are reasons why the director might make a decision that those enforcement measures are not going to be fruitful, given the particulars, and we go into the particulars in the subsections underneath this.

The reality is, and it is clear in the business plan of the ministry, that when this plan is turned over to the private sector, one of the reasons a private sector assignee might decide not to enforce an order is that they would not make enough money from enforcing the order. It's very clear that there has to be an incentive for the private person to in fact enforce these orders. If it is too difficult, if it becomes too onerous or if the amounts collected are



so small that the fee that can be charged now to the payor would be too small, then the incentive is not there for the private investor.

This refusal to do an order is specifically to make this a profitable business for whoever the ministry turns over the family support plan to, and it is not, in my view, appropriate to the public policy reasons why we have a family support plan in the first place, nor is it appropriate for us to be giving permission to either a public servant or a private operation to refuse to enforce an order that has been set by a court.

**Mr Tilson:** In response to the motion, the government will be opposing this motion. We have pointed out in the past, at this committee and in the House, that this isn't something new. In fact, I read some figures, a statement to the committee, indicating the number of cases that had been closed. What this section is doing is to codify what went on under the old plan. The program, as we have indicated, will cease enforcement on cases where it's clear that recovery is not possible. We've made that clear. The various subsections elaborate or, to use the word, codify what can be done. The director will remain accountable to the Attorney General for the manner in which he or she fulfils this statutory obligation.

Mrs Boyd is suggesting that this is something new. I don't think that's what she means, but that's what is coming out, at least, and it's not new; it's been going on for some time. As I said, what this section is doing is to codify what has gone on before.

**Mrs Boyd:** The member is quite mistaken in his characterization of what went on before. The cases were not closed. Enforcement didn't happen. Cases are only closed under the current law — closed, withdrawn, not there — because the obligation within the order has been fulfilled or the payor has died and the estate has been dispersed. Those cases have been closed.

The reality was that the director, indeed, has not vigorously enforced, has suspended enforcement of some acts. But I can assure you that if in fact cases were actually closed, it was done against the statute and not with our approval. We understood about suspending enforcement in those cases, but I need to make it very clear — and this may be an example of where even under the current circumstances a director of a plan has not been accountable to the government of the day, if in fact cases were literally closed and withdrawn from the plan and are not part of the arrears that are being counted. I find that very difficult to accept. If that is the case, then in fact we have right in front of us a case where the plan, even as it is now, has not been accountable.

1730

**Ms Martel:** I think the point that is being raised is significant because, clearly, in the legislation that is before us under section 7, we are giving someone, at this point a director of a plan that will remain in the public sector for two or three years, the authority to make a decision to close a file. At a certain point, two or three years down the road, if all goes well according to the business plan, we will assign that responsibility to some other agency, in whose interests it will be to close any number of files that are difficult or complex to enforce because it will be too costly to try to enforce those same cases.

Do any of us really think that someone who has outstanding arrears for a long time, where the payor has tried every which way to Sunday to avoid payment, and we heard a number of those cases here — what collection agency is going to spend any time whatsoever putting someone on to that case to spend lots of money to try to track that payor down and try to enforce payment? I submit to you that very few people in any agency are going to be prepared to do that.

What I see happening in this section, which bothers me a great deal, is the government putting in place the permissive legislation that will allow the director of a private sector agency to do just that, to close down difficult or complex files.

I don't think that's where we want to be. I don't think, given everything we heard from the people who came before us about their individual cases and their great difficulties in trying to get support payments, that we want to be in a position of allowing the head of a private sector agency to at will close down an order that was put in place by the court, which neither that director nor frankly this government has any business closing down.

Mrs Boyd made it very clear that her experiences, having been Attorney General and having had responsibility for the plan, are that there were any number of files that were suspended. As I recognize the numbers, in relation to 149,000 court orders, those numbers were quite small. But she clearly outlined under which circumstances a case would be closed, ie, when the payor is dead. A number of files no doubt would have been suspended because the payor, eg, might have been in prison, might have been on social assistance, and clearly those reasonings continue to apply under section 7.

But I submit to the Conservative members that there is a very significant and very important difference between the director having the ability to suspend enforcement for a time because those enforcement activities cannot be carried out for a variety of reasons at that time and giving that director the same ability to make a determination to close a file, which would be quite contrary to the power that has already been established by a court and quite contrary to the responsibility the plan should be undertaking as per a court order.

I heard the parliamentary assistant say, "You have to allow cases to be closed so that recipients can enforce on their own." I don't think during the course of time we had people before us that very many of those recipients had any luck on their own taking enforcement activity and getting some money. I don't think we heard that. To say that that's one of the reasons why we have to allow the closure to take place, this is not the circumstances and the experiences of people who came before us. They had luck neither within the plan nor on their own. That can't possibly be used as a legitimate reason why we would put this section in.

I really ask people to consider the difference, and there is a significant difference, between closing a file and leaving it sit and having in reality only the recipient ever come and start action again and allowing the case to be suspended for a time and, when new information comes into the plan, to have some mechanism, through the new technology that's going to be in, to allow those cases to



be reopened, whether that payor comes back into the province, whether he or she applies for a driver's licence, whether third-party assets are found etc. I think there is a huge difference and we all ought to recognize that.

**Mr Tilson:** This is the second of three or four issues before us on which we fundamentally disagree. I can only say that the policy before this bill came into being was that files were closed. They were administrative closings. They were not pursued. They were based on administrative policies. It was as simple as that. They were, in the wisdom of the people who were administering it —

**Mrs Boyd:** Suspended.

**Mr Tilson:** Well, you say, "Suspended," but the fact of the matter is that they were not pursued. There was no way, until further information came, in which they could be pursued. It was as simple as that. Ms Martel has mentioned the issue of someone being in jail. Someone has disappeared; someone is ill. I'm just trying to think of reasons under the current system. Someone is ill and simply may not have the resources; they may be all gone.

Obviously, to put staff on that collection process would be impractical; it wouldn't be practical to proceed. In the wisdom of the administrative staff in those situations, they would deem those files closed, and they wouldn't be pursued until further information came back. I can only repeat that what the government is doing is simply codifying what has gone on in the past.

**Mr Ramsay:** Mr Tilson, I'd just ask you to consider this point, because I think we all want this to be effective: As you progress with your business plan and you privatize, eventually, the collection of this, this section here could really skew any sort of real verification and performance rating of how the agency is doing, because the agency, when it finds itself having difficulties in collecting, could then say, "Well, we suspend using section 7; for one of these reasons here, we're suspending that case," and could always show a performance rating of, "We are collecting about 98% of our enforceable judgements," because they've already sorted out the bad ones.

They could show a very high performance rating and make the plan look, "Well, this is very good," but yet we could have thousands of recipients complaining because they're not getting what is due to them because the director of the plan, or maybe it's going to be the president in this case of the agency, has deemed them to be unenforceable. That's a concern.

I think all of us around this table want to ensure that if you are going to be going down this route, we have some accountability. How do you gauge the accountability? In this type of thing it's pretty simple: How successful are you? How many cases do you have, and how well are you doing? What percentage are you collecting? I wouldn't want to see anything get in the way of proving what the performance is of that agency and making sure it's doing the job we all want it to do.

**Mrs Boyd:** Mr Ramsay has outlined very clearly what one of the concerns is, and that is, we know from the business plan of the ministry that the whole plan to privatize this is based on the ability of the private operator to determine what is cost-effective in terms of the profitability of their operation. We know that. It's

spelled out quite clearly in the business plan. One of the issues in the business plan is that there needs to be a capability of closing files that are not going to be profitable to the private operator. It's very clear in the business plan. I'm not making this up, you know.

The reality is that this is a necessity for the government in order to continue with its proposal to farm this out to the Royal Bank, with another partner, probably Unisys, because they have made it a condition of their interest in this. They have been very clear that they will not do this unless they can maximize their profits. That's what it's all about when you privatize things.

The only way, in a plan like this, where there clearly is difficulty in collecting the dollars, is to close files that are an embarrassment and that are going to cut down on the amount of money that you can make, that are going to cost too much. The business plan says very clearly that where enforcement is too costly or where enforcement is too time-consuming, these are the measures of efficiency, which are very different when you have a privatized plan than when you have a plan whose focus is to ensure that money gets into the hands of children and their custodial parent. It's a very different prospect than making dollars out of enforcing this plan.

1740

I would say to Mr Tilson, the reason that we didn't simply say, "Okay, wipe out subsection (1). We want you to withdraw it altogether," was that we believe very strongly it is important to put legislatively into place a way in which enforcement can be suspended when it becomes difficult. That was a great difficulty for the plan in the past when they weren't actively enforcing some files for some reason, and that was something the staff in the plan had asked for, some way to legitimately suspend enforcement when it became that kind of situation. But it is going to be important, particularly given the emphasis that the Attorney General and the other speakers on this bill and on other issues that have arisen about this plan have made about the unenforceability of it on the arrears that are outstanding.

Those arrears are not owed to the government. Those arrears accumulated under a court order and they are owed to the recipients. The parliamentary assistant told us that this would in no way affect the court order; the court order is still in place. Those arrears are still accumulating, and the only reason to allow this plan to close the files is exactly as Mr Ramsay says: to make the performance of a private operator of this plan look good or, in the interim, the performance of the Attorney General's ministry look good. If you start closing files, if from 150,000, instead of going in a month, as we might expect, to 151,400 files, you drop back to 145,000 files, all of a sudden the performance looks better because the arrears of those extra 5,000 files are not there and they do not look as though they are a problem. But the arrears are still there in terms of what's owed to the recipients. The arrears are still there according to the court order. But no one's keeping track of those and everyone suddenly is under the illusion that everything is working well when it isn't. That's why this is such an important issue.

In order for the plan to operate efficiently and effectively, yes, we agree there are circumstances in which



enforcement ought to be able to be suspended for various reasons and those reasons outlined, because we know that otherwise there's a problem. But when you suspend enforcement, you don't have those files disappear and you don't have those arrears disappear. They still accumulate, and what you do is keep track of the number of files that you're not actually enforcing and for what reason. Then you keep the accountability in the system.

**Mr Klees:** I'd like to just get some clarification on this issue if I could, and perhaps the parliamentary assistant or staff could help me with this. My understanding of the intent to close a file is for administrative purposes, that we, during a period of time when the determination is made that enforcement of a particular file is no longer possible or is at least temporarily not possible, is not cost-justifiable, that, as Mrs Boyd has said, there's a legitimate reason to suspend enforcement — clearly, as Mrs Boyd said, those arrears continue to accumulate. The arrears don't accumulate because of the plan; they accumulate because of the order, and it does mean that the files are closed strictly for administrative purposes.

If those arrears continue to accumulate, and if after a period of time the person who is owed those arrears wants to reopen the file and there's been some change of event that gives the individual reason to believe that perhaps now there is an opportunity to realize some benefit from that file, at that time when an application is made again to the plan to enforce is it not a fairly simple administrative procedure to bring the file back up to current status?

In other words, if on a monthly basis the arrears haven't been tracked, so you're not putting a clerk on that file or you're not monitoring the system on a monthly basis, is it not fairly simple administratively to then do the retroactive calculations to the date at which the new application is being made? So if the arrears started off at \$10,000 when the file was supposedly closed, you do the calculation again at the time that you want to reopen it and now the arrears are at \$25,000 based on the number of months that haven't been paid.

The reason I'd like clarification on that is because I think Mrs Boyd —

**Mr Tilson:** I think we've got a problem, Mr Chairman.

*Interjections.*

**Mrs Boyd:** Motion to adjourn.

**The Chair:** I understand it is improper for this committee to sit while the bells are ringing. Excuse me; we'll get a ruling. I understand there is no actual rule about sitting on committee while the division bells are ringing. However, there should be time to get to the House, and I would suggest that we continue until the 10-minute time. Is that suitable?

**Mrs Boyd:** May I suggest a five-minute time, Mr Chair? We're just down the hall. We're on the same floor.

**The Chair:** Five minutes? That's fine. Okay, where were we? Mr Klees.

**Mr Klees:** I'd like to pick up where I left off, because I share Mrs Boyd's concern that what we don't want to have happen is that there is simply a cosmetic result here. Somehow we have to assure the benefactors of an order

that their file will not be lost track of, that there will be a continuous tracking, if not monthly, so that when they revisit the plan they will have the benefit of the calculation being brought up to date so that we're dealing with the then-current figures. Can you enlighten us in terms of what the intent is in that regard?

**Mr Goodman:** Under subsection 16(6), either the recipient or the payor would have the right to refile with the program at any time. This right applies even if the case has been affected by the operation of section 7(1), ceasing to enforce. What would happen at that point in time, and you're looking probably in most cases at a recipient wanting to come back into the program for enforcement, is the recipient would be giving an updated statement of arrears, which is just to clarify what the status of the account is since the time the case has been out of the director's hands for enforcement.

They would be using the same file number. The case number would remain the same because all orders, when they're made in Ontario, will still be filed with the program. It would be reactivating that case they had before when they're coming back in, so whatever was on the system before would be reactivated.

**Mr Klees:** Okay. And at any point in time between the time the file has been administratively closed and the time that a new application, or a reapplication, is made, if I were to ask the question relative to that particular individual as to whether or not there are arrears outstanding, what would the response be?

**Mr Goodman:** When the file is no longer with the director's office for enforcement under section 7? During that period of time we wouldn't have any accurate information as to the amount of arrears.

1750

**Mr Klees:** But you would have the information as to what the arrears were at the time the case was closed.

**Mr Goodman:** Yes.

**Mr Klees:** That would still be on record.

**Mr Goodman:** What I would anticipate you would have is information which would show what the arrears were at that point in time, not necessarily that would be carried forward on the records, but they would show what the arrears were when the case was acted on.

**Mr Klees:** You used an interesting term and I would like clarification on that. You said when the case was still "with the director." What does that mean? When you close a file, then, where does the case go if it's no longer with the director?

**Mr Goodman:** The physical hard copy of the file would be sent to an archives facility. The government maintains an archives facility. But you would still have the electronic system and records from your electronic system. You don't shred or destroy the files.

**Mr Klees:** So the actual physical file would be in an archive; I understand that. But again, getting to the heart of what this is all about, at the time that I make my call to you and I say, "file 2000," could you tell me what the status of that file is? Would the director still be able to say: "We have closed that file. The last date of action on that file was three years ago. The balance outstanding at that time was \$10,000"? Would we at least still have that kind of information?

**Mr Goodman:** Certainly, if we're speaking to one of the parties on that information, I would assume we would tell them what we had historically from the case number.

**Mr Klees:** So if we were to look at that time at the overall plan, would it be the intention that the total amount of arrears outstanding would include the arrears on those cases that we have considered closed?

**Mr Goodman:** No. You mean, would they be shown as arrears outstanding on the books of the director for that instance?

**Mr Klees:** Yes.

**Mr Goodman:** No, I would not anticipate that.

**Ms Martel:** Exactly.

**Mr Klees:** The reason I wanted to follow that line of reasoning is because I think there should be room administratively for us to correct that if in fact you're saying it wouldn't show. I think it makes a great deal of sense for us to know what the total amount of arrears is in this province at any given time.

I'm not saying we need to go through the cost of tracking that monthly and adding all the interest on and so on, but I think it is important that we don't lose sight of the fact that those arrears are in fact owing, they're owing to real people in this province, and I don't see a reason why administratively we couldn't do that. I'm not suggesting that legislatively we need to entrench that, but I am suggesting that administratively it makes a great deal of sense for us to protect the integrity of the program to have that kind of information.

**Mr Tilson:** There were several issues raised by Mr Ramsay, Mrs Boyd and Mr Klees.

With respect to subsection 16(6), which has to do with the refile, obviously the recipient under that section would simply file a notice — and I hope Mr Goodman will correct me if I'm wrong — plus a statement of arrears. Based on that statement, there would be a recalculation of the arrears. It would be very simple to recalculate it, going back. The order continues; it never stops.

You mentioned the hard file. It's very easy to retrieve a hard file. It might take some time, but not an unusual period of time. At the same time, there would still be the electronic filing, which is still there. Would you say I'm correct, Mr Goodman, to there?

**Mr Goodman:** Yes.

**Mr Tilson:** After that amount has been recalculated, the enforcement would begin. We believe that if new information is brought forward by a recipient, the process to revive those files is very easy and very simple and can be done very quickly to retrieve the files and to proceed with the collection.

Mrs Boyd raised the question of the accountability or review of the agencies. I keep harping on the issue of privacy, which was perhaps the point raised by Mr Ramsay. Notwithstanding what happened in any business plan which the two NDP members repeatedly talk about, our government has talked about privatization in all kinds of things, and if it doesn't work, if it's not going to be economical or if it's not going to provide the service to these people, we're not going to do it. It's as simple as that.

If they felt the service could be provided better, could be provided more economically, if a collection could be

made whereas the government for whatever reason can't make the collection — I'm just shooting off examples here; someone may have some better examples, but those are the examples I can think of — the Attorney General would enter into an assignment, and the terms of that assignment would be that there would be a performance review, just like anything else the government enters into with respect to any other form of assignee. Therefore, there would be a performance review made of the assignee from time to time, pursuant to the assignment that was entered into with the Attorney General.

**Mrs Boyd:** If what you have said is true, that the assignee would not have to keep track of what was really owed under the orders but only the orders being enforced by the plan, then accountability would not be there. The reality is that this gives every incentive to an assignee to close difficult files so that their performance review looks better, and that's exactly our point. Part of the performance of the plan, and it's been open to public scrutiny, always has been: What is owing and what are they collecting? It's always shown that there is a huge amount owing that is difficult to collect.

All of a sudden, you're changing the act so that anyone who is assigned this responsibility can make their performance look good by closing difficult files. You will not know what the total amount of arrears is because you will only know at the moment the file was closed that so much was owing, not the accumulation of arrears since, as has been the case. This really is a method of trying to show, whether it's the government itself or an assigned agency, that the plan has suddenly become more efficient and effective when in fact it may not have. What may have happened is that files are closed, the arrears are not accumulating, and no one knows that all this has disappeared. On the surface it looks very effective, it looks very efficient, it looks as though it's wonderful.

The concern we have is that when you're spending slews and slews of money trying to enforce something that for one reason or another is not easy to enforce, yes, you ought not to have to keep spending those resources pursuing it; you should be able to suspend the enforcement. But you shouldn't be able to suspend the accounting of what has happened to those files. The accumulated arrears, the accumulation of dollars that we as citizens have not been able to see given to the recipients under a court order, should be immediately transparent to all of us.

That's one of the most important things about this plan: getting the public to understand how much it costs all of us if a support payor does not fulfil his or her obligation. That's the whole crux of this plan and the whole reason it was made transparent, so that people would understand how much it costs us as a society when family responsibility isn't being observed. What you do by allowing this closure of files is to mask that.

There is no reporting function here about how many files and how much the dollars are or what the implication of that would be, because you've said that you would stop keeping track of that. There is no way for the public to know and every reason for the public to assume that all of a sudden this is much more effective than it will be under this act. I think that is a breach of our



accountability in terms of this plan. These dollars do not belong to the government or to the private company; they belong to recipients.

**1800**

I have a question with respect to the reactivation of the file. When we define "recipient," are we defining the custodial parent who is the person to whom these payments are made or are we talking about the children themselves? One of the issues that has arisen is, what if the children to whom these moneys are supposed to be paid want the file activated and the adult custodial parent is not the requester? What would happen?

**Mr Tilson:** I can only look at the definition of "recipient" in the bill. Perhaps it would be more appropriate for Mr Goodman to respond.

**Mr Goodman:** It would only include the child, the subject matter of the order, if the child was named as the person to receive the payment. There are cases where they either change it or they start off on that basis in the first place.

**Mr Boyd:** In most cases, orders read "the custodial parent of the child."

**Mr Goodman:** Yes. Normally, that's true.

**Mrs Boyd:** So a child who did not agree with a parent's decision under either section 7 or section 16 would have no recourse to their parent's decision under what you've put in here.

**Mr Goodman:** Not under the legislation. They would have to go back to court, have the order changed to have it payable to them, and then they would be able to file because they would then be the recipient and meet that definition, but not simply by being listed as a person for whom an obligation exists.

**Mrs Boyd:** And of course if the file is closed, then five years later a child is going to know that this is an option they have.

**Mr Tilson:** Excuse me —

**Mrs Boyd:** I'm being sarcastic. Obviously, part of the problem with restarting files is that you make an assumption that everybody who's owed money by the plan has the sophistication to understand that at any moment they can reactivate the order. The reality is that people don't have that and children owed the money under the plan don't have that opportunity in many cases unless they go back to court. It's really not the simple, "Oh, just reactivate the plan" that we're hearing. It may mean there's a disentitlement forever as a result of this.

**Ms Martel:** Let me follow up on that point, because it is a very important point. All of us who listened to any number of recipients obviously saw that many recipients very much stayed on top of their individual files, and when they had new information about any aspect of it were quick to report that to the family support plan.

There were others who came here and others whom I know, for example, in my own riding, who want nothing to do with the payor. They don't want to be responsible for trying to track him down. They don't want to know if he's back in the province or living near them. The nature of the relationship and the nature of the breakup which led to the order and their estrangement is such that they never want to be responsible to know where that person is again and probably hope they never see him or her again.

For us to assume that under section 16 it's quite a simple matter for a recipient to call in to the plan or to lay some new information on the table about the whereabouts of the payor which would reopen the file — I think we're all kidding ourselves if we believe it's that kind of simple matter. It's not. There are thousands of women out there who never want to be involved with that payor again, who (a) would probably not understand what their rights are under this legislation once a file is closed, would no doubt assume that once it's closed it's over and that's the end of their expectation to ever have enforcement; or (b) would not make the kinds of inquiries that would be necessary to reopen a file, as I see under section 16.

We can't lose sight of that, because that is the case, I suspect, for thousands and thousands of women, and it will not be just a simple matter for them to file a notice and a statement of arrears to get things going again.

It seems to me that the onus should continue to be on the director and the staff of the plan to use the new technology that's going to be coming into the plan to be reviewing the files on an ongoing basis — and how we define "ongoing" I leave to other people — but who themselves take on the obligation and the responsibility to be reviewing suspended files. If you close that down, in all likelihood what will happen, even under a system run by the government, will be that those files are not touched again, not looked at again. There would be no information sought from MTO, for example, with respect to driver's licences; no information sought from a collection agency. Everything is left closed unless and until a recipient takes it upon himself or herself to file some new information, and I think in a lot of cases that's just not going to happen.

Second, let me tell you again why we're concerned. Any number of the government members who spoke in the debate, the minister included, made much of the fact that there were almost \$1 billion in arrears owing, and that's why the plan was broken, that it had never worked, that we needed to pass this bill to have all the new enforcement mechanisms to deal with that substantial problem. The parliamentary assistant used that himself on a number of occasions.

The minister, however, made a very specific statement in his debate on second reading which was that according to ministry criteria, some \$500 million of arrears is uncollectible. I ask people to think about what that means in relationship to section 7 and why we are so concerned about that section. Why is it that the minister, even with all the new enforcement mechanisms we're going to put into place, would still consider that half a billion dollars in arrears are unenforceable?

To us, in looking at that, we can only assume that the way we're going to get rid of those arrears and not have them showing on some books somewhere is to deem the director to have the responsibility to close a file; if not a director within the plan under a public system, then certainly the president or CEO of whatever organization the government will have privatized this to two to three years from now.

Surely it's not in anyone's interest to have those arrears in a position where they do not show, and that is

what happens when you allow someone the discretion to close a file. You allow either the government of the day or a private agency to make themselves look a whole lot better because all these numerous files have been closed and the arrears attached to them don't show any more. So who's accountable? Whom are we serving if we do that? It's not in our interest, it's not in the interest of the recipients to make the plan look better, either under public or private hands, because we merely close the file and we shut down all of the arrears attached to that.

That is what I am fearful about in section 7. That's why I think section 7 is here, to allow us the opportunity to do that. If I hadn't heard the minister say he believed that many millions of dollars in arrears were not enforceable, I wouldn't worry, but I heard him say that. The amount is very significant, and the only way you can get to that amount and write that down is to close any number of thousands of files and all the arrears attached to them.

I say to the government, the way we continue to keep the plan accountable for all the public is to be sure that, yes, we allow some files to be suspended under very specific criteria, because we recognize as well as you that there are files that it would be silly to have staff try to enforce because it's just not the time or the place to enforce. But surely we don't want to find ourselves in the position where people are closing files merely to bring down the amount of arrears owing in order to make the plan look a whole lot better and for people to be able to say: "Look at how wonderful all our enforcement tools are, look at how well they've worked. Arrears went from \$1 billion in 1997 to \$500 million or \$400 million in 1999."

I don't think that's where we want to be, but if you keep section 7 the way it is, where you allow the director to close those files and the arrears not to show somewhere, that's what you get yourself into.

**The Chair:** We have Mr Klees, Ms Boyd, Mr Johnson, Mr Tilson.

**Mr Tilson:** Mr Chair, there are six minutes left till the vote. I think it may be appropriate for us to go to the House.

**The Chair:** No. We agreed upon five minutes, so we have — come on, I'd like to hear from you, Mr Klees.

**Mr Klees:** What I have to say can't be said in one minute and I won't fall for that.

**The Chair:** How about you, Mr Johnson?

**Mr Ron Johnson:** I'm willing to wait.

**The Chair:** Okay, we'll adjourn until five minutes after the vote.

*The committee recessed from 1810 to 1824.*

**The Chair:** If we may resume, we have Mr Klees, Ms Boyd, Mr Johnson and Mr Tilson.

**Mr Klees:** I'd like to follow up on this issue of tracking the arrears. I think it would be unfortunate that a bill with as positive a message as this one be characterized as sinister because of this issue of not tracking the arrears. I don't believe for one minute that it's the intention of the government to use this section simply to make things look better than they are. I don't believe that, but I think the very fact that so much time is being spent around this table making that suggestion should

give us some pause and perhaps help us to think creatively about how we can avoid something so positive being turned into a negative.

I'd like to ask staff if there isn't the available technology, which doesn't sound to me too farfetched, so that when a case is administratively closed the electronic record of that case be programmed to continue to accumulate; if it's a monthly support payment that's at issue, that the electronic record wouldn't be able to continue to accumulate those arrears; if it's a lump sum outstanding where there's an assessed interest, that the electronic record can't continue to accumulate those interest payments.

It seems to me that this is not farfetched and is certainly within the realm of possibility and wouldn't require any physical attention to the file at all. Perhaps that's even contemplated. If it is, it would be important for this committee to know that and to dispel the concerns that are being voiced around the table that perhaps this section 7 would be used to do something that it's not intended to do. Could we get some clarification on that?

**Mr Tilson:** My understanding is that if you did as you were suggesting — I'm just trying to raise a possibility — a recipient could conceivably receive some sort of funding without telling the plan — this is after a file has been closed — so that the calculations would not be accurate. When the calculations are going to become accurate is when a notice has been filed, when the recipient has filed a statement, a declaration indicating what the arrears are. At that time, if there's a dispute, there would be a dispute mechanism. But to follow along and keep it electronically alive may not be accurate, because as I say, funds could conceivably be received by a recipient and the plan would not be informed of that payment.

**The Chair:** Mr Klees, does that conclude your question?

**Mr Klees:** I certainly have an answer. I would like to think, however, that if the recipient was originally a member of this plan because there was a difficulty in collecting and saw this plan as a vehicle to ultimately recover whatever those arrears were, we could count on the recipient to be responsible to the degree of reporting when any payments were received, and the adjustments could then be made. To make the assumption that all recipients would be irresponsible and wouldn't report goes against the grain of what it is that we're trying to do in terms of preserving the credibility of this plan. If on occasion those payments aren't reported, the adjustment can just as easily be made when the file is reopened, rather than have the error, if you will, against the plan or acting against the recipient. That's my concern.

Again, as a member of this government I have to say that the reason I'm voicing this concern is that I think it can be solved administratively. I think it can be solved just in terms of how we're setting this plan up. As a member of this government, I'm concerned that we're allowing an administrative matter here to cloud what we're trying to do with this bill.

**The Chair:** Ms Boyd, Mr Johnson and Mr Tilson.

1830

**Mrs Boyd:** I thought Mr Johnson was before me, actually.



**The Chair:** No.

**Mrs Boyd:** I would echo what Mr Klees has said, that in fact it does call into question the credibility of the situation when you say, as you do, in a very facile way, that anybody can always reactivate this by putting in a request and a statement of arrears. Basically, that is the point at which the two things would be looked at, because if the person were reactivating and giving their sense of what the arrears are, that would have to include any payments that have been made or else they'd be subject to the false reporting penalties within the act. So I think your suggestion is correct.

The real issue here is, there is no way for the people of Ontario to know the extent to which people are not fulfilling their obligations if those calculations aren't made and reported, because simply withdrawing the order doesn't mean the order hasn't been made, doesn't mean those moneys aren't still owing, doesn't mean the arrears aren't still accumulating; it just means, for the convenience of whoever is administering the plan, they've decided not to report that. That seriously undermines the credibility of what the government is attempting to do in the rest of the act.

**Mr Ron Johnson:** I have, as well, a number of concerns over this part of the act, and I happen to agree with a number of things Mr Klees had said. When it comes to closing a file, at the end of the day it's still going to be largely a subjective decision. The concern I have is this: In the legislation, I question, first of all, ultimately, the determination of what is reasonable and practical made by an individual who very well may differ in their opinion from mine or anyone else's around this table.

The other concern is — I'm curious, and I'm looking for an answer here if you can help me — when you look at the steps that would have to be taken before a file is closed, have you given any thought as to — I know it will vary, depending on the cases — the length of the process, in terms of time, that may take? Are we dealing with a six-month process, a two-year process? Maybe you can help me out with understanding the process that would be involved in deeming something impractical.

**Mr Goodman:** It depends on the nature of why it's impractical. If it's because the order itself is unclear and ambiguous, as in part of the sections, then you wouldn't have the same steps to go through. But the existing policies and procedures do set up steps to be followed before you would do it. If it's because of no collection coming on the case, you would have to make sure that you've taken all steps to enforce that are available, that you've looked in all the trace-and-locate data banks that we have at this point in time. I would anticipate that those criteria would continue to be applied, either through the internal policies or under subsection 7(2), where the Attorney General can establish guidelines as well.

**Mr Ron Johnson:** I'll tell you what some of my concerns are. If we look at what this does, really, in essence it shifts responsibility from the plan to the recipient, in terms of reactivating a file or really getting anything done once the decision has been made to close a file.

I believe, even in a jurisdiction as large as Ontario, people catch on pretty quickly. If we look at the recipi-

ents who came and made presentations here, we see very clearly that many of them come from affluent families; ex-husbands who have been, literally, dodging the system for a very long time. If in fact payors learn — and I believe they will; I think they'll learn very quickly — that if you dodge the system for a couple of years, you're off the hook, this is my concern. I don't see any built-in mechanism in the system that would follow anything up and reactivate the file on behalf of the recipient; so if you could help me with that.

**Mr Tilson:** I think it's appropriate to comment that there are some amendments in the package of the government, in response to Mr Johnson's question. With respect to clause 7(1)(d), there's a motion somewhere in the package to delete that.

**Mrs Boyd:** We're all agreed on that one.

**Mr Tilson:** Well, I'm trying to answer his question, and I believe it does answer his question, where "arrears of long standing are owed under the order." I hope that it would be unanimous. It would be something, after all the talk that's been going on, if it wouldn't be unanimous.

The other amendment is clause 7(1)(f), where the words "of the payor" are being taken out. I believe those amendments will go a long way to answering your concerns.

**Mr Ron Johnson:** I think it goes partway, but we've still got what I think, in my opinion anyway, is the shift in responsibility to the recipient. Let me give an example of something that I would actually find repugnant in a way. In the legislation you're talking about somebody being sentenced to five years in prison, for example. I've got to tell you, if you're going to get five years, you're not a good guy; you've done something bad. What we've said basically is this —

**Mr Guzzo:** The courts never made a mistake.

**Mr Ron Johnson:** What we've said basically is this: If in fact a payor has been sentenced to five years in prison, we've said very clearly that case would be closed. What we've done then is take the recipient, who in all likelihood doesn't want a darned thing to do with this guy ever again, and we've said clearly that it's her responsibility to do two things: (1) follow his career through the prison system and find out when he gets out; and (2) track him down, find him, and once you've got the guy, go then and have the file reactivated. I just think it sets recipients in a very awkward situation. I don't expect a response, because I know that's what's in the legislation, but I just think it really puts some recipients in some cases in a very awkward position.

**Mr Tilson:** All she's got to do is refile and the system will find him.

**Mr Ron Johnson:** She's got to find him first.

**Mr Tilson:** In the hypothetical —

**Ms Martel:** She's got to find him first.

**Mr Tilson:** But just a minute; I'm trying to correct something that Mr Johnson said.

**The Chair:** Mr Tilson, you're next, so go right ahead.

**Mr Tilson:** Sure, if that's the case. The question that was asked specifically, if someone is in jail, incarcerated for a period of time, all the person has to do is to file, to refile, and the system will find him. That's how it works. It's as simple as that.

You also need to refer to subsection 7(2). You indicated that the decisions to do these things are subjective. No, they're not subjective. The subsection is quite clear that "The Attorney General may establish policies and procedures respecting subsection (1) and the director shall consider them in exercising his or her discretion under that subsection." So it's not subjective. You just can't go and wing it; it's going to be quite clear on guidelines as to how you do these things.

I think the other thing you need to realize with respect to all of these issues is that not only is there a motion to take out clause 7(1)(d), which makes it quite clear that arrears of long-standing are owed under the order, and to amend clause 7(1)(f), but you also have to look at all of the enforcement procedures that are under the bill.

Ms Martel talked about the arrears that are outstanding. Yes, the arrears are outstanding currently under the existing system, there's no question about that, but we believe with all of these new enforcement procedures — and you all know what they are. Just the simple fact of section 54, for example, which provides better methods to trace and locate defaulting parents. That's not there now. We're going to have all these other sections: the licence removal, the reporting case to credit bureaus. I'm not going to run down them all, because you know what they all are. But those sections, we believe, that don't exist now will alleviate these substantial arrears that have been outstanding for some considerable period of time, so that we will be able to find more information from the enforcement section than we've ever had before. With these new tools of the enforcement section, the various enforcement sections, these arrears will be cut back substantially.

Just to summarize, because of the guidelines that the Attorney General is going to put forward to the director, which shall be followed under subsection 7(2), they are not subjective. The very fact that these substantial arrears that simply cannot be enforced —

**Mrs Boyd:** It doesn't say "shall."

**Mr Tilson:** "And the director shall consider them in exercising his or her discretion under that subsection." That's the word "shall." That's what it says.

Where was I? With respect to the enforcement provisions, Mr Johnson, I believe that those enforcement provisions will provide more information. Finally, getting back to your original point, all the recipient has to do is file. The recipient doesn't have to go out and seek this information out. All they've got to do is file. We've gone through how simple that procedure is.

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**Mr Ron Johnson:** This is a great bill. I love this bill. The problem is that there are parts of it which I have concerns with; this is one of them. I'm not disputing at all the enforcement measures. I think that's what makes this bill so strong. The concern, though, that I have is that as much as you're right that she could simply file — I say "she" meaning in most cases — as a recipient —

**Mr Tilson:** Except you're suggesting she's got to go out and find these people, and we're saying that's not the case. That is not the case under this bill.

**Ms Martel:** She can't just file.

**Mr Ron Johnson:** In order for the recipient —

**The Chair:** Mr Johnson, Mr Tilson has the floor.

**Mr Tilson:** Mr Johnson, I have no problem continuing on. I simply say, I again repeat, we're not telling the recipients, "You go out and find this information." The bill doesn't say that. We're saying: "Tell us to revive it. You revive it. We'll go out and find these people."

**Mr Ron Johnson:** But the point I'm making, though, is that the recipient is not going to do that unless the recipient has further information that would lead to the re-opening of the file. The information isn't going to land on the recipient's lap. The recipient has got to go after it. It's the only way it's ever going to get reopened.

I completely agree with the bill and the reason behind the bill. I just hate to see us do something that in effect will cause files to be closed and put more responsibility on the recipients than they already have. In fact, I think the kind of responsibility that they would have to take on as a result of this particular section is the kind of responsibility they don't need or they don't want, because they don't want to go tracking down these guys, and that's exactly what they would have to do.

**Mr Tilson:** Mr Johnson, taking the example you have raised of someone being incarcerated, obviously if someone is no longer incarcerated, surely that information can be revealed to the system. If you don't know where he is, the plan will find out where this person is.

**Mr Ron Johnson:** That's a good question I would have, then. If somebody is incarcerated for five years or longer, is there going to be a trigger mechanism in place that would allow your ministry to know when that person has been released and then reactivate the file? I would argue that's not there. At least, I don't see it.

**The Chair:** Thank you, Mr Johnson, Mr Tilson. This isn't a caucus meeting, this is a committee, and we'll follow it in order. Mrs Boyd and Ms Martel.

**Mrs Boyd:** I share exactly what Mr Johnson —

**Mr Ron Johnson:** Don't say that; that scares me.

**Mrs Boyd:** If he will look at page 14 of our amendments, in fact that's what we are talking about, having those automatic triggers in, because we think that's important too. We basically think we shouldn't leave it up to "The Attorney General may establish policies and procedures." We're saying it should be in this act that in fact this office has to ensure that all of the enforcement measures, the trace-and-locate measures that are in this act, have to apply before there's any suspension of enforcement and that because of the vision that's there, clearly, in the ministry around the files that are accessed, talking to each other, exactly that trigger mechanism ought to come into place.

Frankly, folks, I think we're all being very naïve if we make an assumption that because somebody has been jailed for five years they don't have any assets. It's ridiculous that they don't have any assets that could be attached. Yet this is saying you can withdraw from enforcing a support order because somebody's been convicted and sentenced to five years in jail. It doesn't say that all of these mechanisms have to come to bear on this file first.

What we're saying on our page 14 amendments is that in each case when you do this all of the mechanisms have to have been applied and then there needs to be a



periodic review of those suspended files compared against those trace-and-locate measures to see whether it should be automatically reactivated or not. That's exactly what we're asking for, because we think it is extremely important that the recipient not be the one responsible for triggering this in every case, that we have some responsibility as a public service to do this, given the kind of problems that we see in these cases.

**Ms Martel:** Two short points, if I might. I can only say to the parliamentary assistant these two things. If we've got all of these wonderful new enforcement mechanisms, then why do we need a section 7 at all? Why are you putting into the legislation an area that is causing great controversy not only among committee members but frankly among a number of people who came to this committee, who told us very clearly: "We don't want anything to do with the payor. If I ever see him again, it will be too soon" — him or her again.

The fact is that it's not just a simple matter of the recipient sending in a notice saying, "I want my file reopened." If the director has closed the file based on any of these criteria and no new information comes to the plan or no new information is submitted by the recipient, how likely does anyone here think it's going to be that the director is going to reopen that file? Forget it. The director is only going to reopen the file if and when some new, important, pertinent information comes into the plan that someone can take some enforcement action on.

That means, by and large — because I don't see any other mechanism in here for computers to talk to each other and for there to be a trigger annually or semi-annually for the file to be reviewed — the recipient himself or herself has to take it upon himself or herself to deliver the new, important information that would allow the director to use his or her discretion to reopen again. It's not a simple matter of sending in a letter saying, "Please reopen my file." If it was, the file wouldn't be closed in the first place.

What I'm saying is, we really do need to not give the director that kind of discretion to close the file, because the arrears situation is going to be lost, and we are not going to know what is owing in a public way, and we should know that if we care at all about trying to change public perception and making sure that people start to pay.

Secondly, we have to find the ways and means that the various mechanisms that we agree with and that we even have in our own amendments still do allow for the plan and the staff in the plan to trigger a review of the file to see if new information has come from any source, be it MTO, credit agencies, third-party interests, you name it, or the recipient, and that will allow someone to have enforcement action taken on their file again.

It's not a simple matter. Right now what we are doing — I agree with Mr Johnson — is putting the majority of the onus on the recipient to do all of this work when in fact that recipient may not want to have anything to do with the payor.

**Mr Ramsay:** In light of the last remarks by Ms Martel, who said right at the beginning of her remarks, "Then why do we need a section 7?" I'd just like to ask the committee to reconsider the motion I placed just

previous to this one, that if — and I buy into it, that these enforcement mechanisms are a lot better than we have previously seen, and I have some faith in these. So, if they are that good and we believe they are that good and they're going to perform well on behalf of the clients, then why do we need these options of opting out of enforcement? Again, I make the plea that we get rid of section 7.

**Mr Tilson:** The members are saying get rid of section 7, and to do that, I assume that what you're saying is go back to what we're doing now. There are administrative closures that are going on now without any communication whatsoever with the Attorney General's office, without any sort of guidelines. There are absolutely no guidelines with respect to these closures.

We believe that there should be guidelines, because what is going on now creates false expectations with respect to the collection of these accounts. Let's be realistic. Some of these accounts for periods of time may be completely uncollectible.

Just to correct something that Mrs Boyd said with respect to serving time, being incarcerated, clause 7(1)(g) refers to where a file can be closed if, in the opinion of the director, "The payor is in prison serving a sentence of five years or longer and has no assets or income available to satisfy the support order and any arrears under the order." It's quite specific; it's quite detailed. You can't just be incarcerated; you can't have anything.

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These files that are being closed are quite specific. There is no way of collecting anything, and to carry on with these files and give these people this false sense of expectation is cruel. We believe, to be realistic, that the codified system that is being suggested under section 7, as being proposed in an amendment in a subsequent motion is appropriate. I would request that the committee defeat the current motion put forward by the NDP.

**Mr Guzzo:** I wanted to mention the practice of what happens at the present time, and the parliamentary assistant has dealt with it. I don't know what the significance is of the wording here, "close and suspend," because it seems to me that the communications that I have seen from the plan would indicate that files were closed for specific reasons in the past. I guess my question to the staff or the parliamentary assistant is, if under 7(1), (2), (3) or whatever a decision of the director is taken not to enforce, how do I as a recipient challenge that?

**Mr Tilson:** Mr Goodman will answer that question.

**Mr Goodman:** As I understand it, the Attorney General is considering establishing a guideline to deal with some sort of review of decisions made by the director.

**Mr Guzzo:** That doesn't answer my question. I'm not really interested in what the Attorney General is considering. As it stands now under the existing act — and some decisions are being taken at the present time even though it's not codified — if I wanted to challenge a decision of the director today before we pass this act, how do I go about doing it? Judicial review?

**Mr Goodman:** We've never had a judicial review. Generally, the review of the director's exercise of discretion has been done by the Ombudsman's office.

**Mr Guzzo:** Is it your intention that that's what the preferred option would be once this act is passed, that if someone wants to challenge a decision of the director, now that it's codified, you would go to the Ombudsman or make an application for judicial review?

**Mr Goodman:** An individual has the right to go to the Ombudsman at any time when a government agency has made a decision. It's their right to go and have that reviewed. The Ombudsman would then review those decisions that are being made.

**Mr Guzzo:** I know that, but the point I'm trying to make is this: It's not really all that efficient and it's not really all that effective. Judicial review is slow and expensive. But that is what is contemplated here, save and except that you're telling me that the Attorney General is thinking of dealing with it by regulation.

**Mr Tilson:** Just further to the answer that's being provided, there's no question that subsection (2) talks about the policies and procedures respecting all of that. That's part of the policies and procedures that the Attorney General may consider. I might add that there's no procedure now. This is better than what we have now. There's nothing now.

**Mr Guzzo:** That's not true. Think of what you're saying. Of course there's a procedure now.

**Mr Tilson:** No. If there's an administrative closure of a file, how are you going to reopen it now?

**Mr Guzzo:** Judicial review, and that's what I'm going to be looking —

**Mr Tilson:** Then what's new?

**Mr Guzzo:** What I'm telling you, and I'm sorry if I have to drive it home, is that this is not really all that acceptable if we're trying to help people. If you're trying to be cumbersome and you're trying to make it as expensive and as difficult as possible, leave it exactly the way it is. Thank you.

**Mr Tilson:** We believe that the policies and guidelines of the Attorney General as set forth in subsection 7(2) will answer that question.

**Mrs Boyd:** I'd like to call the question. A recorded vote, please.

**The Vice-Chair (Mr Ron Johnson):** All those in favour of the amendment?

**Ayes**

Boyd, Martel, Ramsay.

**The Vice-Chair:** Opposed?

**Nays**

Doyle, Hudak, Klees, Parker, Tilson.

**The Vice-Chair:** The amendment is lost.

We move now to amendment 10.

**Mrs Boyd:** I move that clause 7(1)(a) of the bill be struck out and the following substituted:

"(a) the amount of the support is less than \$10 per month."

The rationale is that it is not appropriate, it seems to me, to leave it up to the director or to the director's assignee as to what is a nominal amount. We had people come in front of us who said they could well envision

that the nominal amount might be set at \$25, \$30 or \$50 a month. That may sound nominal to some people, but for the people who are under receipt of support it is substantial. However, I appreciate that for the plan the issue of continuing to try and collect on what some judges have ordered, which is \$1 or \$2 a month, is not practical. It seems to me that if we have it at \$10 a month, that certainly would pay for some of those school trips that some of our delegates told us their kids were not able to have because their money was not coming forward. It is a nominal amount; \$10 is not a great deal, but it would cover the costs of collection in the plan.

**Mr Tilson:** The government doesn't believe that this amendment is necessary. With respect to clause 7(1)(a), the government does agree with the NDP's interpretation of "nominal" and we believe this will be reflected in the Attorney General's policies and guidelines that will guide the plan.

**Mrs Boyd:** All along the parliamentary assistant is asking us to believe that guidelines we haven't seen, that indeed are not even required to be set by the act — they may be provided, but they do not have to be, according to the act — are somehow going to answer these very real concerns. It would be a huge mistake for us to make that assumption.

**The Vice-Chair:** Seeing no further debate, all those in favour of the amendment?

**Mrs Boyd:** A recorded vote, Mr Chair.

**Ayes**

Boyd, Martel, Ramsay.

**Nays**

Doyle, Guzzo, Hudak, Klees, Parker, Tilson.

**The Vice-Chair:** The amendment is lost. Moving to amendment 11.

**Mr Tilson:** This is the motion I've been referring to. I move that clause 7(1)(d) of the bill be struck out.

The rationale of this motion is to address the concerns that have been raised. Section 7 provides that the Family Responsibility Office can refuse to enforce a support order and the related support deduction order in cases where enforcement is unreasonable and impractical. Section 7 further states the types of situations which will be considered impractical or unreasonable. Although section 7 is a codification of the existing policies and procedures established by the director of the family support plan, a number of presenters during the public hearings to the committee have raised concerns with the operation and impact of section 7.

As we have indicated, to address those concerns and to make it clear that the director will only cease to enforce when it is clear recovery is not possible, the Attorney General is introducing two motions to amend section 7. The first motion is this one, which deletes that section. As a result, the director will not cease to enforce a case solely on the grounds that there are long-standing arrears. This amendment, with the policies and procedures that the Attorney General will be establishing under subsection 7(2), together with the amendment that will follow on clause (f), will make it abundantly clear that section



7 is not an attempt to remove hard-to-enforce cases from the Family Responsibility Office.

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**Mrs Boyd:** Call the question, Mr Chair.

**The Vice-Chair:** All those in favour of the amendment? Carried.

Moving to amendment 12.

**Mr Ramsay:** I withdraw it.

**The Vice-Chair:** Moving to amendment 13.

**Mrs Boyd:** I withdraw it.

**The Vice-Chair:** Amendment 14.

**Mrs Boyd:** I move that clauses (e), (f), (g), (h) and (i) of subsection 7(1) of the bill be struck out and the following substituted:

“(e) the recipient has deliberately and persistently withheld information in his or her possession which could assist the director to locate the payor or to enforce the order or that relates to the amount of arrears owed under the order;

“(f) the location of the payor or the recipient cannot be determined and the director has employed every measure available under this act to locate the payor;

“(g) the payor is in prison serving a sentence of five years or longer, the director has determined that all enforcement measures available under this act have been exhausted and the payor has no assets or income available to satisfy the support order and any arrears under the order;

“(h) the payor is receiving benefits under the Family Benefits Act or assistance under the General Welfare Assistance Act, the director has determined that all enforcement measures available under this act have been exhausted and the payor has no assets or income available to satisfy the support order and any arrears under the order;

“(i) the recipient repeatedly accepts payment of support directly from the payor without providing the director with receipts of such payments signed by both the payor and the recipient.”

The purposes of the clauses are fairly evident. In (e) the issue here is one that really pertains to some of the concerns that the plan has raised over the years, that there are times, whether it's by coercion or not, that a recipient may have hidden information from the plan around the location of a payor, and there are many reasons why that might happen. In those cases it is quite appropriate for the director to suspend the enforcement of the act under those circumstances.

In clause (f) I'm not going to argue it because we probably like better the proposal that the government has for (f).

In (g) it is necessary not to assume that because someone is in prison all of the efforts under this act have been employed. It is not sufficient, it seems to me, that for someone who, for example, may have been in prison for five years at this point and be sentenced to a further 15 years or a further 15 years before eligibility for parole, these measures have not been taken to see whether this person has assets that are available to them. In many cases, especially for long prison terms, we find people mysteriously well to do when they leave prison, particularly in cases of fraud and extortion and some other issues. Some of us can think of recent, celebrated cases

where that is the case, where it has been assumed that people don't have any assets but live very high off the hog when they are released from prison. It seems to me that the measures available under the act need to have been brought to bear.

Similarly with the Family Benefits Act and the General Welfare Assistance Act, we've heard a lot of rhetoric from this government about people cheating on welfare. It would seem to me that given the belief that seems to be there that people cheat the Family Benefits Act and the General Welfare Assistance Act, the extraordinarily strong search powers available under this act should be brought to bear on support payors to ensure that they are not also defrauding the Family Benefits Act. The Family Benefits Act and the General Welfare Assistance Act enforcement includes no measures that are similar in any way to the kinds of measures that are available under this act. It seems to me that the measures in this act ought to be brought to bear.

Similarly, it seems to me that where recipients are themselves responsible for confusing the enforcement of this act by accepting payments outside of the act, not through the director, they bear some responsibility for the difficulty that the director has in enforcing the act. If it were clear to recipients that if they accepted those dollars and didn't obtain a receipt signed by both parties that was submitted to the director, it would be appropriate for the director to refuse to take responsibility.

**Mr Tilson:** With respect to (e), I'll run down some of the comments with respect to what Mrs Boyd has put forward in her resolution.

Mrs Boyd's proposal in clause 7(1)(e) is excessively onerous on the program in that the program can't close a file unless “the recipient has deliberately and persistently,” I think are the words, “withheld information.” Bill 82 provides that where the recipient has refused reasonable requests for information from the program, the recipient's file could be closed. In short, we believe that the proposal is excessively onerous.

With respect to (f), (g) and (h), the criteria that the director must ensure that all enforcement measures have been exhausted before a file can be closed under (f) to (h): Bill 82 doesn't use this wording because there are cases where all the enforcement measures are not applicable or necessary.

The Attorney General has made commitments to apply new measures under this bill. In other words, all these new measures must be looked at before they can be closed.

With respect to clause 7(1)(h), the NDP is proposing that a recipient should be permitted to accept direct payment from the payor as long as the director is provided with receipts of such payments signed by both the payor and the recipient.

The program has never permitted direct payment because it's too difficult to keep accurate and timely records regarding arrears. The program doesn't want to take active enforcement measures only to find out that the arrears are not owing because the recipient accepted direct payment. If the parties want to make their own payment arrangements, they can opt out of the program.

With respect to (i), which is the final proposal in the resolution —

**Mrs Boyd:** Given the mess the plan has been in over the last few months, people who were quite happy to let the plan be the collector of moneys have been in a position where I'm sure we will find many parties had direct receipt of funds. I think there are a large number of payors out there who aren't prepared to see their children starve, and I suspect there was a lot of that going on. I would not want to see a recipient have a file closed because of that as long as efforts are made, as they would be in our proposal, to inform the plan of that so you didn't have a problem with arrears, that you had a record that was there from both the payor and the recipient saying, "Yes, over this period of time, because the plan was in chaos, for example, this is what happened." It shouldn't interrupt the payments, and under (i) it would, because "repeatedly" is not defined; it could mean anything from two payments to any number of payments. I think the issue here is making sure the records of the plan are clear.

As the member for Dufferin-Peel is aware, we don't believe that people ought to be able to opt out, but this would enable the plan to control that kind of issue without the opt-out provision.

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With respect to the other sections, there is nothing in this bill that requires all these enforcement mechanisms to have been used. We have a verbal assurance from the minister that that's what he intends and we have a section of the bill that enables the Attorney General to set guidelines and principles but does not require him to do so.

**Ms Martel:** If I can follow up on that point, if it's good enough for the Attorney General to give an undertaking that the measures will be looked at before a file is closed, then I would assume it's good enough to put it into the legislation. That way it's very clear to the public and everyone that these are the conditions under which files will be closed and that files will only be closed when all efforts to enforce that come through this bill are taken.

I don't understand what the problem is in putting what I understand has been a verbal agreement by the Attorney General into the act. I think it's even more important that we do that. When the plan is privatized, I would like to have some assurance that this is going to be the procedure under which whatever new agency takes this on finally operates. Leaving that out of the act, hoping it might get into a policy or a procedure the Attorney General may — the operative word is "may" — put into the plan is just not good enough. If he is serious about all these enforcement actions being taken before a file is closed, then let's make sure it's in the legislation, that it's transparent, that everyone sees it and that everyone, including the Attorney General and whatever new organization undertakes this three years from now, has to follow those very same rules.

**The Vice-Chair:** Further discussion? Seeing none, all those in favour of the amendment? Opposed? The amendment fails.

Moving to amendment 15.

**Mr Tilson:** This is an amendment I referred to earlier.

I move that clause 7(1)(f) of the bill be amended by striking out "the payor or" in the first line.

**Mrs Boyd:** Call the question.

**Mr Tilson:** If she doesn't want the rationale, we'll vote on it, sure.

**Mrs Boyd:** We've talked about it. You've already given it.

**The Vice-Chair:** All those in favour? Opposed? Carried.

Number 16.

**Mrs Boyd:** I move that clause 7(1)(l) of the bill be struck out.

The effect of this would be to take away the very ambiguous provision that enforcement of the order is otherwise unreasonable or impractical, which a number of the members of this committee have expressed concern about. I think it is not appropriate to leave something that ambiguous in this act, given the concerns that have been raised around the refusal to enforce orders.

**Mr Tilson:** Obviously this section of enforcement of the order is otherwise unreasonable or impractical, and it's being suggested that it be deleted. We don't believe this would be feasible. The director of the plan needs to have the residual authority, in our opinion, to close cases where enforcement has proven to be unreasonable or impractical for reasons not specified in the various sections of section 7.

**Mrs Boyd:** It is very clear in the business plan of the ministry that one way it might seem impractical or unreasonable to enforce is if the company enforcing it doesn't make enough money. It says very clearly in the business plan that it is going to be important to make the enforcement of orders practical from a profit point of view. That is exactly why we want this taken out; that is not a good reason not to enforce support orders which are for the maintenance and care of children.

**Ms Martel:** We've already had the discussion about why we agree or disagree that the director should have the right to refuse to enforce the support order, and I won't go through that argument again. But surely, for the government members, this leaves the discretion wide open that anything that's not covered above, some very specific circumstances, if there's any other reason the director of the plan in a public or private system wants to close a file, that is captured under clause (l).

I think we are doing ourselves, and the clients we think we are here to serve through this legislation, a real disservice when we leave in clause (l), which just covers the whole waterfront. If there isn't any other reason that we haven't already captured to close the file, it will be captured under this. In the long run I think we are going to end up ensuring that the collection agency that gets hold of this is going to be able to make a decision not to enforce hundreds and millions of dollars of arrears just by deciding that it's not practical, not reasonable, ie, not profitable, to do that. I think that's a real disservice to the people this legislation is supposed to protect.

**The Chair:** If there are no further comments I'll put the question. Shall the amendment carry? All those in favour? All those against? The motion is lost.

Item 17.

**Mrs Boyd:** I move that subsection 7(2) of the act be struck out and the following substituted:



"Policies and procedures

"(2) The Attorney General shall establish policies and procedures respecting subsection (1) and the director shall follow them in exercising his or her discretion under that subsection."

The impact is to ensure that these policies and guidelines actually exist, that they are public and that the director is bound by them in making the decisions that have been agreed to by this committee.

**The Chair:** Any further comment before I put the question?

**Mr Tilson:** We believe that the words "shall consider" are sufficient. We don't believe that this amendment is necessary. The Attorney General has indicated, through me and through his own comments, that it's our intention to develop guidelines, and we will.

**Mrs Boyd:** Just a reminder: This act, as all acts, applies not only to this Attorney General but to all subsequent attorneys general. If an Attorney General is not bound by the act to establish policy and guidelines, an Attorney General may decide not to, and that would not be in the best interests of the people who are served by this area. I do not believe in any way that "director shall consider them" has the same impact as "director shall follow them."

It is not appropriate first to say that you're giving permission to an Attorney General to put these things into place, not requiring an Attorney General to do so, and then pulling your punch and saying the director "shall consider" these rather than "shall follow" them. It should be binding upon a director, particularly with the provision of this act that allows that director to assign his or her responsibility to anybody in the world, to follow policies and procedures that are required to be set down by an Attorney General.

**Ms Martel:** If it's good enough for the Attorney General to verbally give an undertaking, I just don't understand why it's not good enough to put it in the legislation. I really cannot understand, in some of these sections when we're trying to fix a bill, which we have also supported, why it's not good enough to put it right in the act. It sends out all kinds of signals to people that a lot of efforts the Attorney General talks about wanting to undertake will not be undertaken. I think that's a bad signal to send.

**Mr Guzzo:** If we're going to do it and it's going to be this Attorney General who does it, what's the problem with agreeing to do it in the legislation? But more important, what is wrong with directing that the director will follow what guidelines we propose as opposed to having a discretion in considering them only, a discretion that, and I go back to my last point, is going to be very cumbersome to impose if we don't provide for same in this legislation? Forget the first part. If he says he's going to do it, he'll do it. But the second part, what's the thinking that would allow the discretion to be left with the director?

1920

**Mr Tilson:** Mr Guzzo, obviously when you're preparing guidelines, it's exactly what they say they are, they're guidelines; they're to assist the director in making decisions. You can get too stringent, which I believe this

amendment does, or you can assist the director, the Attorney General can assist the director in making his or her decisions. That's exactly what the whole purpose of guidelines is, otherwise we'd spell them out in the act. If you spell them out in the act, you're going to end up with all kinds of problems.

**The Chair:** I have a question. If you use the wording "director shall follow them," does that mean that the director's decisions are then subject to judicial review?

**Mr Tilson:** You'll have to ask that to the mover of the motion. We're not supporting this amendment. If you look at the wording of what we're suggesting, subsection 7(2) says, "The director shall consider them." The amendment says, "The director shall follow them." You'll have to ask that question to Mrs Boyd. You may be correct.

**Mrs Boyd:** My interpretation would be that under either circumstance it's always open to judicial review.

**The Chair:** My experience is somewhat different, that "shall" is much greater than "consider," but in any event.

**Mr Tilson:** I don't want to get into a debate with the Chairman, but the words that are being used in subsection 7(2) are, "The director shall consider them." The words that are being used in the NDP amendment are, "The director shall follow them." Those are two quite different meanings. In other words, "You've got to do this, this, this and this." If that's the case, why have guidelines at all? Why not codify every specific point? You can't pigeonhole every case. You can't conceive of every case.

That's exactly what guidelines are for, to offer suggestions to the director to make his or her decisions. If you start following the NDP proposals, that might make that decision almost impossible to make in certain situations.

**The Chair:** If there are no other comments or discussion, I'll put the question. Shall the amendment carry? All those in favour? All those against? The amendment fails.

Item 18, Ms Boyd.

**Mrs Boyd:** I move that subsection 7(3) of the bill be struck out and that the following be substituted:

"Duties of director upon suspension

"(3) If the director suspends the enforcement of an order under subsection (1), the director shall,

"(a) notify the payor and the recipient; and

"(b) indicate in the appropriate record that the order has been suspended as of the day the payor and the recipient received notice.

"Resuming enforcement

"(3.1) The director shall resume enforcement of a support order or support deduction order upon receipt of relevant information with respect to the location of the payor or to the payor's assets or income.

"Same

"(3.2) If an order is suspended under clause (1)(f)" — sorry. That piece is withdrawn, Mr Chair, because clause 7(1)(f) has now been withdrawn.

**The Chair:** Subsection 7(3.2) has been —

**Mrs Boyd:** Subsection 7(3.2) is withdrawn in consequence of the withdrawal of clause 7(1)(f).

**The Chair:** Okay. Ms Boyd, what is the intent?

**Mrs Boyd:** The intent is to talk about this as a suspension of enforcement rather than a withdrawal of enforce-

ment, first of all. It really is just to make it suspended rather than withdrawn.

**Mr Tilson:** On a point of order, Mr Chairman: Just so I understand what your amendment is, subsection 7(3.2), all we did in clause 7(1)(f) was to delete the words "of the payor." Is it still your intention to delete all of that portion?

**Mrs Boyd:** Yes, because all we were interested in was the location of the payor in the first place.

**Mr Tilson:** Thank you.

**Mrs Boyd:** I can assure you, Mr Tilson, there may be some cases where the recipient can't be found, but in most cases it definitely is the payor who can't be found.

**Mr Tilson:** I agree.

**The Chair:** Is there any further discussion in regard to the amendment? If not, I'll put the question. Shall the amendment carry? All those against? The motion is lost.

Mr Ramsay is not present. I would therefore ask that we proceed to item 21, which is Ms Boyd.

**Mrs Boyd:** I move that subsections 7(4), (5), (6) and (7) of the bill be struck out and the following substituted:

"Cost-of-living clauses

"(4) If a support order or a support deduction order made in Ontario includes a cost-of-living clause, the clause is deemed to require that the cost of living be calculated in accordance with subsection 34(5) of the Family Law Act and the director shall enforce the clause accordingly.

"Same

"(5) If a support order or a support deduction order made outside Ontario includes a cost-of-living clause, the clause is deemed to require that the cost of living be calculated in accordance with subsection 34(5) of the Family Law Act and the director shall enforce the clause accordingly.

"Transition

"(6) If an order contains a cost-of-living clause that is not calculated in accordance with subsection 34(5) of the Family Law Act or, if the order was made outside Ontario, in a manner that the director considers similar, which became effective before this section came into force,

"(a) the director shall, upon this section coming into force, continue to enforce the order and the cost-of-living clause at the same amount at which the director of the family support plan was enforcing them immediately before this section came into force; and

"(b) the director shall make all further adjustments to the cost of living after this section comes into force as if the cost of living were calculated in accordance with subsection 34(5) of the Family Law Act."

The purpose of it is to try to deal with the concerns that were raised by the CBAO in their presentation. It does not entirely accord with what they wanted. Part of their concern was that subsection 34(5) of the Family Law Act does not in fact accord with the way in which cost-of-living formulae within the various orders actually are designed by lawyers.

The reality is that we appreciate the government's concern, but there needs to be a formula that can be easily applied so that the cost of living can be calculated in a non-manual manner, be done in a computerized

manner. What I think the force of the bill as it stands will be is that a lot of people who negotiated and got orders that included a cost-of-living clause will no longer get a cost of living, all of a sudden it will be wiped out, and what we will see are many people flocking to the courts for variations in orders because the cost of living is no longer going to be allowed.

I have raised the issue around the varying of orders as a very serious problem for courts administration, a very costly problem for recipients and indeed for payors. I believe that we ought to be doing everything in our power to at least ensure that there is some cost-of-living allowance so that we don't get all of these applications for variance all at once, that in fact if people are satisfied that they're getting some cost of living, we may see fewer of these variations coming forward.

**Mr Tilson:** I think there's a subsequent government amendment on this same issue. In short, the philosophy in both the NDP amendment, as Mrs Boyd has indicated, and the amendment that will be put forward by resolution of the government is responding to the delegation; I believe it was the Canadian Bar Association, the family law section. The NDP resolution suggests that the provisions be in the bill, whereas the government amendment is suggesting that they be by regulation. In short, that is the distinction between the two amendments.

#### 1930

The NDP want an amendment to subsections 7(4) and (5) to deem all cost-of-living allowances to be calculated in accordance with subsection 34(5) of the Family Law Act. The legislation restricts COLA clauses that will be enforced by the director's office to those that comply with subsection 34(5) of the Family Law Act, as those are the only types of provisions which can be automatically calculated. All other types of clauses result in manual administration and therefore unduly impact on the workload of the director.

These other types of clauses typically contain several variables. Historically, the director has found that it is impossible to obtain the necessary information from the parties to calculate the COLA and that the parties have very different interpretations of what the increase will be.

Deeming all COLA clauses to be calculated in accordance with subsection 34(5) of the Family Law Act would mean that the legislation, in our opinion, would automatically vary up or down amounts of support the parties had agreed to or what had been ordered by the court, and this would be a change from the historic role of the office, which is to enforce but not to vary support orders. It is for that reason the government cannot support this resolution.

**The Chair:** Is there any further discussion regarding the proposed amendment?

**Mrs Boyd:** Just the observation that then there are going to be many people who don't get any cost of living even though they negotiated that in their agreements or it was ordered by the court. Also, you will find that in addition to all the pressures that are going to come on the court because of the change in the federal law you get a huge volume of people asking for variations because they will not get the cost of living.

**Mr Tilson:** I can only respond by asking her, if she hasn't already, to look at the government resolution



which is coming up shortly which will add that the regulations can prescribe different types of cost-of-living provisions. I hope that will satisfy her concerns.

**Mrs Boyd:** It won't. I have looked at it, and it does not satisfy them, because it still says under section 7 in your amendment, "The director shall not make any further adjustments under the cost-of-living clause after this section comes into force." So you have not fixed it.

**Mr Guzzo:** I'm really at a loss to understand how subsection 7(4) can not be supported. If we're really interested in, first, cutting down the costs, cutting down the administrative costs involved in the operation of the courts, freeing up time of the administrative people and the judiciary, avoiding as many variation applications as possible, knowing that Thibodeau is going to dump an enormous number on the court docket, and second, never mind the administrative costs of it, just trying to assist the people, the clients of the courts, how could we not support this? Surely it was just an oversight on the part of the drafters.

**Mr Tilson:** With respect to this amendment, surely, Mr Guzzo, as you know, if this amendment were supported, we would be supporting the variation of a court order, which I don't think we have the jurisdiction to do.

**Mr Guzzo:** I don't agree that you would be supporting a variation of a court order any more than when you take a foreign garnishment and bring it into your court, it's expressed in a foreign currency and the judge assesses the exchange rate between the country of the original order and the Canadian rate at that time as opposed to the time the original order was made, that such an action is adjusting a court order. I don't agree that it is and I can show you jurisprudence that agrees with me, and I'm sure you could find jurisprudence that agrees with you.

**Mr Tilson:** It appears we've agreed to disagree. I can't add any more.

**Mr Guzzo:** Everything we've talked about in terms of streamlining, reducing costs, leads me to believe that (4) should be supported in this particular amendment. Quite apart from that, even if it didn't, there's a strong argument to be made in terms of assisting people who are before the court or assisting them in staying away, in not having to be before the court and spending additional time and resources.

**Mr Tilson:** I'm only going to repeat what I've said, and obviously we disagree. It's as simple as that. With respect to these COLA clauses, I believe that you are varying a court order where you don't believe that. You're comparing it to orders from other jurisdictions, and I simply disagree with your interpretation, with due respect.

**Mr Guzzo:** What would your interpretation be with regard to — well, I don't want to get into that. Let's not hack it to death.

**Ms Martel:** If I might ask the parliamentary assistant the following question: You say in your amendment, which comes next, that there will be the possibility, through regulation, to make changes which can then go into effect. My concern is with 7(b), which says, "The director shall not make any further adjustments under the cost-of-living clause after this section comes into force." Can you tell me how we're going to make some changes by regulation with 7(b) in place? What am I missing?

**Mr Boyd:** Mr Chair, I wonder if we could move on.

**The Chair:** The question's been asked. Are we asking that the amendment be stood down?

**Mr Tilson:** May I suggest we stand this down? We'll try and answer that question.

**The Chair:** Okay. We're standing down both item 21 and item 22. We will now deal with item 19.

**Mr Ramsay:** Even though I feel strongly about it, I withdraw this amendment because I've been informed by legislative counsel that it involves an incursion of funds, because I'm talking about a certificate for legal aid. I believe it's out of order and withdraw it.

**The Chair:** Okay. We will then move on to section 8.

**Mrs Boyd:** I move that subsection 8(2) of the bill be struck out and that the following be substituted:

"Same

"(2) The director shall not enforce a support order or a support deduction order against the estate of a payor unless enforcement is necessary to collect arrears owed by the payor to the recipient under the order at the time of the payor's death and the estate has not been dispersed.

"In order to obtain probate of an estate an executor must obtain a certificate from the director of the family support program stating that no arrears are owed by the deceased on a support order or on a support deduction order."

1940

I'm worried about whether this form is going to be acceptable, because legislative counsel did not know anything about estate law and so wasn't able to advise us as to the appropriate areas of estate law this should amend, so I'm concerned about it. But we heard from many deputants that they did not believe that simply saying somebody died should end the order or that there was any remedy in saying, under the Succession Law Reform Act, that they could go back to court, because that again involves a lot of process and cost to the person who is doing it.

It's our belief that the problem the family support plan identified, of trying to collect on an estate after it's dispersed, is a legitimate and worrisome concern. They cannot very well collect if an estate is dispersed. But given the other provisions of this act, the registrar general's access to death certificates ought to be triggering for the plan the death of a payor, and at that point it ought to be possible for the director of the support plan to indicate that a support order has first claim on an estate and that the estate ought not to be probated according to a will if that outstanding thing is there. We all see every day the ads in the paper advertising for any claimants to somebody's estate when they die.

It seems to me that, given the high degree of automation that's anticipated by this bill, the government ought to have the registrar general's computer speak to the family support computer so that when a death of a payor occurs there's an automatic flag that rises and there's an automatic withholding of the dispersal of an estate until outstanding debts are paid.

**Mr Tilson:** As we know, subsection 8(2) of the bill provides that the program will no longer enforce a support order or a support deduction order against the



estate of a deceased payor. Under this amendment the director should be required to enforce a support order against the estate of a deceased payor. Estate law should be amended so that every executor of an estate should have to obtain a statement from the director that the deceased has no outstanding support obligation before the probate is granted, and the director should not enforce against the estate after the lawful dispersal of the estate or where the estate was dispersed prior to this act coming into force.

To my understanding, the way it's been painted is that a recipient is simply going to be left out in the cold. All he or she has to do is file — I don't know who is expert in estate law — a caveat, I seem to recall is the word that's used, and that stops the estate.

**The Chair:** Are you speaking against this then?

**Mr Tilson:** I am indeed. In short, the program doesn't have the resources to check whether every deceased person in Ontario owed support obligation. We believe this is an unrealistic and onerous demand to be placed on the program, and that's what we believe the amendment is doing.

The program will no longer enforce against estates because such enforcement has proven in the past to be complex, it's resource-intensive and generally isn't successful. The program currently initiates enforcement action against estates, but only in very limited capacities. I think that in her position as Attorney General she will have found that it was done very rarely. The recipient, as I've indicated, can pursue remedies against the payor's estate and an application for dependants relief under the Succession Law Reform Act.

**Mr Ramsay:** The parliamentary assistant really made my point when he said it is very resource-intensive to pursue this. That's exactly why three governments now have agreed to a program such as this to marshal, basically, the taxpayer's resources to help recipients who are not getting what is their due, and this is one example where we could provide the resources through the program to go after an estate.

I'll give you an example of one of the witnesses who came before us the last couple of days: the woman whose husband — I won't mention the name of the club, though I remember it — owned a nightclub. She said he also owned a leasing company and that he had several cars and several homes. She's got five court orders, unable to get what is her children's due. What if this person dies and the woman does not have the resources? Why shouldn't the program, with this sort of amendment, then kick in the appropriate legal procedures to access the moneys that are her legal entitlement? I support this.

**Mrs Boyd:** One of the provisions of the act is for the program to be able to access records in other ministries. The registrar general has to register all deaths. The member talks about it being resource-intensive. We all know how a computer search goes. We've all done them in the library.

A computer search of 150,000 entries against the registrar general's registration of deaths over a period of time — it wouldn't have to be done every day — is not a huge issue and ought to be just a matter of course, given that we now have the permission for these systems

to speak each other. It is not a huge resource-intensive situation, whereas hiring a lawyer and going to the court under the dependants relief act is quite onerous for individuals who do not have the money to retain a lawyer up front.

**Mr Tilson:** Dealing with Mrs Boyd's comment, again I believe it's a philosophical difference. You can look at it the way you want to, but we say the taxpayer simply doesn't have the resources to check every estate, every deceased person in Ontario to determine whether or not that person owed support obligation. We simply do not have those resources to set up that bureaucracy.

With respect to Mr Ramsay, I remember that woman very clearly. She came to the committee to tell us how the existing system doesn't work. If I also recall her testimony, she made it quite clear she believed that some of the enforcement measures we're putting forward in this bill will help her substantially, and I believe they will too, having listened to some of the examples of allegations of assets that were hidden. We believe that with the enforcement measures we're putting forward, those concerns she had will be alleviated.

**Mrs Boyd:** It's very obvious that the taxpayer pays when these payors don't pay. It's to the taxpayer's benefit to invest a little bit in seeking this out, rather than have an estate dispersed to a lot of people who have probably sheltered the assets of a non-payor rather than the family to which the payor owes the money. It is a huge cost to the taxpayer that these payors are not paying. For the member to suggest that the kind of investment that's required would be enormous is just ridiculous.

I happen to know, because I was exposed to it often enough, that the Ministry of Consumer and Commercial Relations, every time you ask to have a cross-reference to one of their files, tells you it will cost \$1 million to invest, and I'd say it all the time. So the investment of \$1 million to collect millions and millions of dollars is not a lot, and the time to do a computer search — you start it and the computer search just goes. It is not a huge cost to do this, and the saving to the taxpayer could be enormous.

1950

**Ms Martel:** One final point to you. I have to remind the parliamentary assistant we're not talking about public money that's owing, we're talking about court orders and money that is owing to predominantly women and children right across this province. That's the money we're talking about. That's the money we should be interested in obtaining. To try to tell this committee that there are somehow huge amounts of human resources required for what is essentially a computer check is just ridiculous. It's just ridiculous to suggest that.

To invest a million bucks in computer technology when you're going to be investing money to upgrade computers to talk to MTO computers etc, if that's not worth it to get hundreds of millions of dollars back, then I don't know what is. But I just have to remind you again, we're not talking about taxpayers' money, we're talking about money that's owing to women and children, and we should be doing everything we can to get it to them.



**Mr Guzzo:** Mr Tilson, let me just zero in on something here. I don't do a lot of estate work but I've handled one recently where I sent a cheque, an outstanding debt, to legal aid. I don't know how legal aid became aware of the death of the individual, but at the time the executor appeared in my office, which was within a short period of the time of death, legal aid had already notified someone in the family of their claim on the estate. So someone in this government or an arm of this government is already doing what we're doing to recapture. I think I can tell you that the same thing takes place when money is owed where there have been assignments to mother's allowance or the general welfare benefit. I think in this government right now we're doing exactly this.

I think what we're doing in this act, if it is a lot of money, we're going to catch it. We're going to catch it because we're going to trigger when that automobile gets sold or whatever else is in the estate. I think that's what we've said and I honestly believe that is what's going to happen. So under it, it's really a dual check where we're going to pick up a lot of the assets anyway. But if it's so expensive, I find it somewhat strange that other branches of this government seem to be doing exactly what this suggests we should do here.

**The Chair:** I think you'll find, Mr Guzzo, that in an estate, when you do your probate, notices are sent out to various organizations on the list, including the beneficiaries. That's the way it works, rather than a certificate which will just set up a new bureaucracy.

**Mr Tilson:** I think you've partially answered the question I was going to give to Mr Guzzo. But I will also say with respect to legal aid, legal aid knows all about those things. Why? Because when you make an application for legal aid, you have to tell everything about yourself. You have to tell what you owe and what's coming to you. So they know that.

**Mr Guzzo:** But you don't tell them when you're going to die.

**Mr Tilson:** That's the point, Mr Guzzo. I don't believe any government has the resources to check every deceased person's estate in Ontario to determine whether or not that person had support obligations. I don't believe we have the resources to do that. The other examples you're giving are quite different from doing that, that universal application.

**Mr Guzzo:** Does the registrar general have the resources to do — I'm not 100% certain of everything he does at the time of the decease of a resident of Ontario, but whatever the registrar general is doing at the present time, one more tick on a computer to check with the Attorney General's arm to see if it's being done is all that's required.

**The Chair:** We have five minutes left before I put all the questions and there can be no further debate. Mr Johnson and Ms Boyd.

**Mr Klees:** Mr Chair, I think you've forgotten me.

**The Chair:** Oh, I'm very sorry, Mr Klees.

**Mr Ron Johnson:** Just take four minutes, Frank.

**Mr Klees:** I just want to register my support for the intent of this amendment. I'm not convinced that it would take a legislative provision to accomplish this, but I want

to certainly register with the parliamentary assistant my concern that we're shifting the onus here to the recipient to collect what is rightfully the recipient's. We're shifting that onus away from the payor or the payor's estate to the recipient. I have to say that I think that's wrong.

Mr Chairman, you mentioned that typically what takes place in probate is that a notice is sent out to various organizations. I think the intent here is that one of those organizations should be the family support plan. I'm suggesting that should become a matter of course. Surely that doesn't cost the government of Ontario anything. That becomes an obligation of whoever is handling the estate. That becomes a cost to the estate. I think if it can't be done in this legislation, there should certainly be an undertaking that we effect whatever legislation or regulation it might be to place the onus of notification on the probate process.

**Mr Ron Johnson:** I'll just be very brief. In terms of this whole process here, Frank is quite right: When you look at probate and the shift of the onus, when we are doing this — and this is just a question. I don't know how difficult it would be to set up. The parliamentary assistant indicated the resources it would take. We are already in the process of doing that with MTO. That's the whole point. I don't know how many drivers there are in Ontario, but we seem very willing and able and ready to go through the searches required for umpteen million drivers in the province. I guess the question then becomes, what extra resources are going to be required to simply do the same thing with the registrar general?

**Mr Tilson:** The amendment puts the onus on the executor. Is that fair? Mrs Boyd will say yes, but do you say it's fair? I don't think it's fair.

**Mr Ron Johnson:** Yes, well, I think —

**Mr Tilson:** That's who the onus is on with this amendment, and that's not fair.

**Mr Ron Johnson:** One other point too is that in many respects what is being suggested here — the one indication from Mr Ramsay was about the one witness we had in here, the nightclub owner, that sort of thing. This wouldn't help that person anyway because those assets are already secured under different names. So in that respect I don't know how it would help, to be quite honest.

**Mrs Boyd:** I would just point out that if we don't change this, subsection 8(2) will completely make this a moot question. Subsection 8(2) makes it impossible for the family support plan to enforce against an estate. What we're doing is, even if we could come up with a solution now, if we pass the bill as it is now, it will be impossible, because it says the family support plan can't enforce once someone's dead. While I think we could have come up with a solution were we not bound by the limits that were set by the government, we aren't going to be able to.

**The Chair:** I believe the witching hour of 8 o'clock has arrived and the motion states that at 8 pm:

"...those amendments which have not yet been moved shall be deemed to have been moved and the Chair of the committee shall interrupt the proceedings and shall, without further amendment or debate, put every question

necessary to dispose of all remaining sections of the bill and any amendments thereto. Any divisions required shall be deferred until all remaining questions have been put and taken in succession with one 20-minute waiting period allowed pursuant to standing order 128(a); and

"That the committee be authorized to continue to meet beyond 6 pm on December 9, 1996, if necessary, until clause-by-clause consideration has been completed."

I would therefore put the question of Ms Boyd's amendment to subsection 8(2). All those in favour?

**2000**  
**Mr Tilson:** On a point of order, Mr Chairman: Are we going to go back to item 21?

**The Chair:** Yes, we certainly are, Mr Tilson, but we are dealing with section 8 right now. I will go back to section 7.

All those in favour of the amendment? All those against? The amendment is lost.

Shall section 8 carry? All those in favour? All those against?

**Mrs Boyd:** Recorded vote.

**The Chair:** I'm sorry, we best take that over again.

**Mr Tilson:** Why?

**Mrs Boyd:** We're having a recorded vote.

**Mr Tilson:** Yes, after the vote was taken.

**Mrs Boyd:** No. He asked me —

**Mr Tilson:** I already voted and you ask for a recorded vote.

**Mrs Boyd:** He asked for it before.

**Mr Guzzo:** I asked for it.

**The Chair:** Mr Guzzo asked for a recorded vote. I missed that, I'm sorry. We shall do it over again. A recorded vote. Shall section 8 carry?

#### Ayes

Doyle, Hudak, Ron Johnson, Leadston, Tilson.

#### Nays

Boyd, Guzzo, Martel, Ramsay.

**The Chair:** We had an abstention, which I do not believe is permitted under the standing orders which apply to this committee also. So I shall again call the question. You are required to vote either aye or nay.

All those in favour of section 8?

#### Ayes

Doyle, Hudak, Ron Johnson, Leadston, Tilson.

#### Nays

Boyd, Guzzo, Klees, Martel, Ramsay.

**The Chair:** I understand my position is that I am to cast an affirmative vote to break the tie so that it can be reported to the House. Section 8 therefore is carried.

We are now returning to Ms Boyd's motion.

**Mrs Boyd:** On a point of order, Mr Chair: Did I understand you to say that you have no choice but to vote yes because of the rules of the committee?

**The Chair:** That is the decision I've made.

**Mrs Boyd:** I understood you to say you had no choice but to vote yes.

**The Chair:** I assume I always have a choice, but I understand I am to follow the traditions of this place and I have been advised that the traditions of this place would have me vote in the affirmative. But I do have a choice, yes.

Subsections 7(4), (5), (6) and (7), an amendment by Ms Boyd. Shall the amendment carry? All those in favour? All those against? The amendment is lost.

A government amendment to subsections 7(4), (5), (6) and (7). Shall this amendment carry? Against? That amendment is carried.

Shall section 7, as amended, carry? All those in favour? All those against? Carried.

There is only one amendment to section 8, a proposed new section 8.1, which is item 25 in your brief.

**Mr Ramsay:** I withdraw the amendment.

**The Chair:** The amendment is withdrawn. Shall section 8 carry? All those in favour? All those against? Carried.

On section 9 we have a third-party amendment, being item 26 of your brief. Shall section 9 be amended? All those in favour? All those against? The amendment is lost.

Shall section 9 carry? All those in favour? All those against? Carried.

Section 10: Shall section 10 carry? All those in favour? All those against? Carried.

We have a government amendment, subsection 11(2), contained in 27 of your brief. Shall that amendment carry? All those in favour? All those against? Carried.

Shall section 11, as amended, carry? All those in favour? All those against? Carried.

There are no amendments, and I would ask, shall sections 12 to 15, inclusive, carry? All those in favour? Any against? Carried.

Section 16: We have an opposition amendment to subsection 16(1), which is contained as item 28 of your brief. Shall the opposition amendment carry? All those in favour? All those against? That amendment is lost.

A second amendment to subsection 16(1), being item 29 of your brief: Shall that amendment carry? All those in favour? All those against? That motion is lost.

We have a third-party amendment to subsections 16(1) to (6), being item 30 of your brief. Shall the amendment carry? All those in favour? All those against? The amendment is lost.

We have an opposition amendment to subsection 16(3.1), being item 32 of your brief. Shall Mr Ramsay's amendment carry? All those for? All those against? The amendment is lost.

We have a government amendment, Mr Tilson's, to subsection 16(5), being item 33 of your brief. Shall that amendment carry? All those for? All those against? Carried.

We have an opposition amendment to section 16, being item 34, which I understand is to be ruled out of order. Mr Ramsay, is that satisfactory?

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**Mr Ramsay:** I guess.

**The Chair:** Thank you. Shall section 16, as amended, carry? All those in favour?

**Mrs Boyd:** Recorded vote.



**The Chair:** A recorded vote is requested.

**Ayes**

Doyle, Guzzo, Hudak, Ron Johnson, Klees, Leadston, Tilson.

**Nays**

Boyd, Martel, Ramsay.

**The Chair:** Section 16 carries.

Section 17: We have a third-party amendment to section 17, being item 35 of your brief. Shall the amendment carry? All those in favour? All those against? The motion is lost.

Shall section 17 carry? All those in favour? All those against? Carried.

Shall sections 18 and 19 carry? All those in favour? All those against? Sections 18 and 19 are carried.

Section 20: We have two amendments. The first is an amendment by the third party to subsection 20(1), being item 36 of your brief. Shall that amendment carry? All those in favour? All those against? The motion is lost.

We have a government amendment to subsection 20(1), being item 37 of your brief. Shall the amendment carry? All those in favour? All those against? The amendment is carried.

Shall section 20, as amended, carry? All those in favour? All those against? Carried.

Section 21: We have one amendment, being item 38, proposed by the third party to subsection 21(1). Shall the amendment carry? All those in favour? All those against? The amendment is lost.

Shall section 21 carry? All those in favour? All those against? Carried.

Section 22: We have a third-party amendment to subsection 22(3), being item 39 of your brief.

**Mrs Boyd:** This is withdrawn, Mr Chair; it's a consequent amendment.

**The Chair:** Thank you. Shall section 22 carry? All those in favour? All those against? Carried.

Section 23: We have a third-party amendment to subsection 23(6), being item 40 of your brief. Shall the third-party amendment carry? All those in favour? All those against? The amendment is lost.

Shall section 23 carry? All those in favour? All those against? Carried.

Shall sections 24 to 27, inclusive, carry? All those in favour? All those against? They are carried.

Section 28: We have a government amendment to subsection 28(9), being item 41 of your brief. Shall the government amendment carry? All those in favour? All those against? The amendment is carried.

**Mr Klees:** Can we get a recorded vote on that?

**The Chair:** It's a little late.

**Mr Ron Johnson:** You're fired.

**The Chair:** Yes, it's too late for that. The members of the committee can confuse me. This is a new experience for me, and not a particularly good one, so if I do make a mistake in the procedure, please correct me. Do not hesitate.

**Mrs Boyd:** Rest assured, Mr Chair, that we do support the enforcement measurements, so you're not going to be in any difficulty.

**The Chair:** Shall section 28, as amended, carry? All those in favour? All those against? It is carried.

Shall sections 29 to 34 carry? All those in favour? Against? They are carried.

Section 35: We have three government amendments. First is an amendment to subsection 35(1.1), being item 42 of your brief. Shall the government amendment carry? All those in favour? All those against? The amendment is carried.

The second amendment is to 35(2.1), being item 43 of your brief. Shall that amendment carry? All those in favour? All those against? The amendment is carried.

The third and last is to subsection 35(8.1), being item 44 of your brief. Shall that amendment carry? For? Against? That amendment is carried.

Shall section 35, as amended, carry? All those in favour? Against? It is carried.

Shall sections 36 and 37 carry? All those in favour? Carried.

Section 38: We have three amendments. The first is an amendment by the third party to clause 38(1)(e), being item 45.

**Mrs Boyd:** It's withdrawn, Mr Chair.

**The Chair:** That motion is withdrawn.

We have two government amendments: first, to subsection 38(2), being item 46 of your amendments. Shall the government amendment carry? All those in favour? Carried.

Second, a government amendment, subsection 38(3), being item 47. Shall that amendment carry? Carried.

Shall section 38, as amended, carry? All those in favour? Carried.

Shall sections 39 to 42 carry? All those in favour? Against? Carried.

We are now at section 43 and we have three government amendments. The first is to subsection 43(1), being item 48. Shall that amendment carry? All those in favour? Against? Carried.

We have a government amendment to subsection 43(4), being item 49 of your brief. Shall the government amendment carry? All those in favour? Carried.

Last is subsection 43(6), being item 50 of your brief. Shall the government amendment carry? All those in favour? All those against? Carried.

Shall section 43, as amended, carry? All those in favour? Against? Carried.

Shall sections 44 and 45 carry? All those in favour? All those against? Carried.

Section 46: We have a third-party amendment to subsection 46(1), being item 51 of your brief. Shall the amendment carry? All those in favour? All those against? The motion is defeated.

Shall section 46 carry? All those in favour? All those against? Carried.

Section 47: We have two government amendments. The first is to clause 47(1)(e), being item 52 of your brief. Shall the government amendment carry? All those in favour? All those against? Carried.

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A government amendment to subsection 47(2), being item 53 of your brief. Shall the government motion carry? All those in favour? Carried.

Shall section 47, as amended, carry? All those in favour? Against? Carried.

Shall sections 48 and 49 carry? All those in favour? All those against?

*Interjection.*

**The Chair:** I'm sorry? We're dealing with sections 48 and 49.

*Interjection.*

**The Chair:** That's a new section, I believe. Were there any votes against section 48 or section 49? If not, they're carried.

We are now dealing with a new section, section 49.1, moved by the opposition, being item 54 of your brief. Shall the Liberal amendment carry? Against? Mr Leadston's not voting with us here.

*Interjection:* He's reading it.

**Mr John L. Parker (York East):** He gave me his proxy.

**The Chair:** No, sorry. We're voting against the Liberal motion. Could I see everyone's hands, please. There's no abstaining here.

**Mr Ed Doyle (Wentworth East):** We're voting against?

**The Chair:** Yes, we're against it. Thank you.

**Mr Tilson:** You're doing a nice job, Mr Chairman.

**The Chair:** It's a lot of fun.

**Mrs Boyd:** We thought you were the Chair, not the whip.

**The Chair:** I'm sorry, Mrs Boyd, I do believe that everyone is supposed to vote, and that's all I was trying to ensure.

Section 50: We have a government amendment to subsection 50(2), being item 55 of your brief. Shall the government amendment carry? All those in favour? All those against? Carried.

Shall section 50, as amended, carry? All those in favour? All those against? Carried.

Shall sections 51, 52 and 53 carry? All those in favour? All those against? Carried.

Section 54: We have four amendments. The first amendment is to clause 54(1)(b), an amendment by the third party, being item 56 of your brief. Shall the third-party amendment carry? All those in favour? All those against? Lost.

We have a government amendment to clause 54(1)(b), being item 57 of your brief. Shall the government amendment carry? All those in favour? All those against? Carried.

We have a government amendment to clause 54(1)(c), being item 58 of your brief. Shall the government amendment carry? All those in favour? All those against? Carried.

We have a third-party amendment to subsection 54(1.1), being item 59 of your brief. Shall the third-party amendment carry? All those in favour? All those against? Lost.

We have a government amendment to subsections 54(1.1), (1.2) and (1.3), being item 60 of your brief. Shall the government motion carry? All those in favour? All those against? Carried.

Shall section 54, as amended, carry? All those in favour? All those against? Carried.

Shall sections 55 and 56 carry? All those in favour? All those against? Carried.

Section 57: We have one government amendment to section 57, being item 61 of your brief. Shall the government amendment carry? All those in favour? All those against? Carried.

Shall section 57, as amended, carry? All those in favour? All those against? Carried.

Shall sections 58 to 61, inclusive, carry? All those in favour? All those against? Carried.

New section, section 61.1, proposed by the opposition, being item 62. Shall the opposition amendment carry? All those in favour? All those against? The opposition amendment is lost.

Shall section 62 carry? All those in favour? All those against? Carried.

Section 62.1 is a new section proposed by the third party, being item 63. Sorry, Mr Tilson?

**Mr Tilson:** No, it's under control, I think.

**The Chair:** We are dealing with item 63 of your brief, which is a third-party amendment to propose a new section, section 62.1. Shall the third-party amendment carry? All those in favour? All those against? The amendment is lost.

Section 63: There are a number of amendments. We have a government amendment to clause 63(b.1), being item 64 of your brief. Shall the government amendment carry? All those in favour? All those against? The motion is carried.

We have a government amendment to clause 63(c), being item 65 of your brief. Shall the government amendment carry? All those in favour? All those against? It is carried.

Government amendment to clause 63(e): Shall the amendment carry? All those in favour? All those against? Carried.

Government amendment to clause 63(h.1): Shall the amendment carry? All those in favour? All those against? Carried.

Government amendment to clause 63(i.1): Shall the amendment carry? All those in favour?

**Mrs Boyd:** Recorded vote, Mr Chair.

**The Chair:** Recorded vote on clause 63(i.1).

**Ayes**

Doyle, Guzzo, Hudak, Ron Johnson, Leadston, Parker, Tilson.

**Nays**

Boyd, Martel, Ramsay.

**Mr Klees:** I haven't read the amendment yet. Just give me one second.

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**The Chair:** We'll have to start at the beginning. All those in favour of the government amendment to clause 63(i.1)?

**Ayes**

Doyle, Guzzo, Hudak, Ron Johnson, Klees, Leadston, Parker, Tilson.

**The Chair:** All those against?



**Nays**

Boyd, Martel, Ramsay.

**The Chair:** The next amendment is a government amendment to clause 63(k.1), being item 69 of your brief. All those in favour of the amendment? All those against? Carried.

Government amendment to clause 63(k.2), being item 70 of your brief: All those in favour of the amendment? All those against? Carried.

We have a third-party amendment to subsection 63(2), being item 71. All those in favour of the third-party amendment? All those against? The motion is lost.

Shall section 63, as amended, carry? All those in favour?

**Mrs Boyd:** Can we get a recorded vote on this one, Mr Chair?

**The Chair:** Yes, recorded vote. All those in favour?

**Ayes**

Doyle, Hudak, Ron Johnson, Klees, Leadston, Parker, Tilson.

**Nays**

Boyd, Guzzo, Martel, Ramsay.

**The Chair:** Section 63, as amended, is carried.

Section 64: First are all government amendments. Is there any objection to taking all the government amendments at one time? If there's any, I can't. If not, I will refer to the government amendments to section 64, being items 72 to 84 of your brief. Shall those amendments carry? All those in favour? All those against? Those amendments are carried.

Shall section 64, as amended, carry? All those in favour? All those against? Carried.

Shall section 65 carry? All those in favour? All those against? Carried.

There is a new section proposed by the government, section 65.1, being item 85 of your brief. We're getting down near the bottom of the pile.

Shall section 65.1 carry? All those in favour? All those against? It is carried.

Shall sections 66 to 68, inclusive, carry? All those in favour? All those against? Carried.

There is one government amendment to section 69, referring to section 198.2 of the Highway Traffic Act, being item 86 of your brief. Shall the amendment carry? All those in favour? All those against? Carried.

Shall section 69, as amended, carry? All those in favour? All those against? Carried.

We're now moving to section 70. There is one government amendment to section 70, referring to section 198.4 of the Highway Traffic Act, being item 87 of your brief. Shall the government amendment carry? All those in favour? All those against? Carried.

Shall section 70, as amended, carry? All those in favour? All those against? Carried.

Section 71: We have two government amendments. Again, if there's no objection, I'll deal with both of them. Shall the two amendments to section 71 carry? All those in favour? All those against? Carried.

Shall section 71, as amended, carry? All those in favour of section 71, as amended? All those against? Carried.

Section 72: We have one government amendment to subsections 72(2) to (5), being item 93 of your brief. Shall the government amendment carry? All those in favour? All those against? Carried.

Shall section 72, as amended, carry? All those in favour? All those against? Carried.

Section 73: Shall section 73 carry? All those in favour? All those against? Carried.

Shall section 74 carry? All those in favour? All those against? Carried.

Shall the long title of the bill carry? All those in favour? All those against? Carried.

Shall Bill 82, as amended, carry? All those in favour? All those against? It is unanimous. Carried.

Shall Bill 82, as amended, be reported to the House? All those in favour? All those against? Carried.

Ladies and gentlemen of the committee, I thank you very much for your indulgence and your good work tonight. I shall report this bill to the House tomorrow. Thank you very much. This meeting is adjourned.

*The committee adjourned at 2038.*











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### STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

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Mr Robert Chiarelli (Ottawa West / -Ouest L)  
Mr Sean G. Conway (Renfrew North / -Nord L)  
\*Mr Ed Doyle (Wentworth East / -Est PC)  
\*Mr Garry J. Guzzo (Ottawa-Rideau PC)  
\*Mr Tim Hudak (Niagara South / -Sud PC)  
\*Mr Ron Johnson (Brantford PC)  
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\*Mr John L. Parker (York East / -Est PC)  
\*Mr David Ramsay (Timiskaming L)  
\*Mr David Tilson (Dufferin-Peel PC)  
Mr Bud Wildman (Algoma ND)

*\*In attendance / présents*

#### **Substitutions present / Membres remplaçants présents:**

Ms Shelley Martel (Sudbury East / -Est ND) for Mr Wildman

#### **Also taking part / Autres participants et participantes:**

Mr Ken Goodman, legal counsel, Ministry of the Attorney General

**Clerk / Greffier:** Mr Douglas Arnott

**Staff / Personnel:** Ms Susan Klein, legislative counsel

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# Legislative Assembly of Ontario

First Session, 36th Parliament

# Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

## Official Report of Debates (Hansard)

Monday 17 March 1997

## Journal des débats (Hansard)

Lundi 17 mars 1997

### Standing committee on administration of justice

Police Services  
Amendment Act, 1997

### Comité permanent de l'administration de la justice

Loi de 1997 modifiant  
la Loi sur les services policiers



Chair: Gerry Martiniuk  
Clerk: Douglas Arnott

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LEGISLATIVE ASSEMBLY OF ONTARIO  
**STANDING COMMITTEE ON  
 ADMINISTRATION OF JUSTICE**

Monday 17 March 1997

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
**COMITÉ PERMANENT DE  
 L'ADMINISTRATION DE LA JUSTICE**

Lundi 17 mars 1997

*The committee met at 1002 in room 151.*

**POLICE SERVICES AMENDMENT ACT, 1997  
 LOI DE 1997 MODIFIANT LA LOI  
 SUR LES SERVICES POLICIERS**

Consideration of Bill 105, An Act to renew the partnership between the province, municipalities and the police and to enhance community safety / Projet de loi 105, Loi visant à renouveler le partenariat entre la province, les municipalités et la police et visant à accroître la sécurité de la collectivité.

**The Chair (Mr Gerry Martiniuk):** I call the meeting of the standing committee on administration of justice to order. We are considering Bill 105. Welcome, ladies and gentlemen.

Members of the committee, you have before you two subcommittee reports. The first one is on 105. I suggest we must deal with 105, which deals with the police services bill, before this committee can proceed. The second one is on Bill 84, the fire services bill, which I suggest we deal with tomorrow after you've had a chance to read it over. However, we must deal with 105 and I would request a motion approving the subcommittee report.

**Mr Frank Klees (York-Mackenzie):** I so move.

**The Chair:** Mr Klees so moves. Is there any discussion regarding the report? It sets out the meeting places over the next four days and further clause-by-clause consideration in May. It also provides for the possibility of this committee reimbursing individuals for travel in the event the subcommittee recommends same. We have some requests, which we'll deal with at a later date, regarding reimbursement for travel.

Is there any further discussion? If not, all those in favour? The motion is adopted.

**STATEMENT BY THE MINISTER  
 AND RESPONSES**

**The Chair:** We are pleased this morning to have the Honourable Bob Runciman, Solicitor General and Minister of Correctional Services. We have one half-hour allotted for his presentation, or such portion that he may choose to use, and then each caucus will have 15 minutes for either statements or questions.

**Hon Robert W. Runciman (Solicitor General and Minister of Correctional Services):** I'd like to indicate that accompanying me today is Mr Fred Peters, who is the assistant deputy minister of the policing services division of the ministry.

As Solicitor General, I'm pleased to have the opportunity to speak about Bill 105, An Act to renew the partner-

ship between the province, municipalities and the police and to enhance community safety. As you know, for many years there has been a pressing need to improve the way policing services are paid for, delivered and kept accountable to municipal taxpayers. The long-awaited amendments to the Police Services Act that we have proposed answer those needs.

Before I get into the substance of the bill, I want to take a few moments to talk about how and why it was written. In December 1995, I initiated a review of policing in Ontario, the most comprehensive review of policing in almost a quarter of a century. The goal of this review was to improve the way policing is provided to the people of this province. This review was conducted in consultation with police and municipal stakeholders, and that consultation has been extensive.

Last June I hosted a two-day police summit to seek input from police, municipal representatives and others on the future of policing in Ontario. The police summit was attended by representatives of the Ontario Association of Police Services Boards, the Ontario Association of Chiefs of Police, the Police Association of Ontario, the Ontario Senior Officers Association and the Association of Municipalities of Ontario. The ministry received valuable feedback from these organizations at the summit and during follow-up meetings throughout the summer.

This work was expanded upon by the Who Does What panel, which reported to the government in November. In addition, the Attorney General and I announced an independent review of civilian oversight of police, which was conducted by Mr Rod McLeod. The McLeod review provided the ministry with recommendations on how to create a simpler, more efficient and effective system of civilian oversight and police accountability.

Bill 105 has three main thrusts which deal with fair financing, local flexibility in the delivery and governance of police services, and improved accountability.

First of all, when it comes to paying for police services, we boil it down to a question of fairness. In our view, and in the view of the Who Does What emergency services panel, it is not fair that some municipalities now receive police services without direct cost to their taxpayers, while others pay the full amount. Some 202 municipalities in Ontario, representing 85% of the province's population, pay for police services directly from municipal property taxes. The remaining 576 municipalities do not pay for policing from municipal taxes. In those municipalities, policing is provided by the Ontario Provincial Police at no direct charge. The cost of providing that service is more than \$182 million a year.

Generally speaking, it is smaller rural municipalities that receive policing at no charge, but that is not always



the case. For example, the village of Wheatley in Kent county has a population of about 1,500 and pays for policing through municipal taxes. The district of Muskoka has a population of 45,000 and receives policing services without charge. This is extremely unfair to the municipalities that are paying their share of policing costs. The Provincial Auditor pointed this out in his reports in 1990 and again in 1994. The NDP government assured the Provincial Auditor that it was "committed to the principle that everyone should pay their fair share of policing costs." Despite that assurance, nothing was done before June 1995.

We have listened and we are taking action. Beginning on January 1, 1998, every municipality in Ontario will be responsible for providing adequate and effective policing and for paying their fair share through municipal taxes.

With respect to policing costs, I want to remind the members of the committee that this is being done in conjunction with the removal of education tax from the property tax rolls, which in many municipalities represents a reduction of some 60% of the current property tax bill. In addition, my colleague the Attorney General recently announced amendments to the Provincial Offences Act which will allow municipalities to access an estimated \$40 million in fine revenues.

Finally, the government's reinvestment strategy will also ensure that no municipality is unfairly burdened by these changes. These measures, taken together, will help make sure that municipalities are able to pay their fair share for policing.

I recently met with delegates at the Rural Ontario Municipal Association, or ROMA, convention. I spoke to them, answered their questions, and met a dozen delegations for an entire afternoon, and I can tell you that these changes are being well received. Certainly there are some questions and concerns surrounding how this will transpire, and we intend to hear those in the coming days and address them as best we can and as quickly as we can. But I want to assure the committee that from the reaction I've read in the papers and heard from individuals across the province, these proposals have received wide acceptance. For instance, an editorial in the London Free Press, "Removing a subsidy most municipalities don't get is the right thing to do." The Windsor Star called these changes "straightforward and equitable." I could also quote the Brockville Recorder and Times, but I'm sure you don't want to hear that one.

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**Mr Peter Kormos (Welland-Thorold):** Please, sir.

**Hon Mr Runciman:** A very glowing commendation.

**Mr David Ramsay (Timiskaming):** They know you down there too.

**Hon Mr Runciman:** That's right. Even more remarkable.

The second major provision in the bill that I want to speak to is designed to give local governments the flexibility they need to make decisions about local services. The government believes that local needs are best understood by local officials who are accountable for the delivery of services in their communities. That's why under Bill 105 the majority of members on police services boards will be appointed by the municipality and

municipalities will be given the authority to set police budgets, which I might add was received with a very strong round of applause at the ROMA convention.

Municipalities will have options for local choice in the delivery of police services to their community. For instance, they can decide to continue with OPP service and be billed on an actual cost basis; they can contract with the OPP directly; they can join with a neighbouring municipality or municipalities to establish a joint OPP contract and a joint police services board; they have the option of entering into an agreement with a neighbouring police service to provide certain specialized police services; or, finally, they can join with another municipality to form a new police service. Regardless of the option chosen, public safety will be the primary consideration.

Consistent with the Who Does What panel's recommendation, the legislation will establish the core functions that must be provided by a police service. Those core functions are crime prevention, law enforcement, assistance to victims, maintenance of public safety and emergency response.

For the first time, in the interest of public safety, the Ministry of the Solicitor General and Correctional Services will clearly define the term "adequate policing," and we'll do this in a regulation pursuant to the bill. This will establish benchmarks for a level of police service that will ensure effective protection for every community in Ontario.

The third and final area I would like to address is the improved system of police oversight that's been developed as part of Bill 105. It's clear to everyone interested in police oversight that the current system doesn't work. Certainly police and municipal stakeholders told us during our extensive consultations over the last year that the current system is complex, bureaucratic and slow, and I know from the inquiries in my office that very few people understand the current system.

The oversight system in Ontario is confusing to the complainant and costly and time-consuming to all taxpayers. Right now, Ontario has four different agencies overseeing the police at an annual cost of almost \$8 million. For example, in 1995, it cost Ontario taxpayers \$1,000 for the police complaints commission to process each of the 3,923 complaints it dealt with that year. At the same time, only 29 of those complaints — less than 1% — required an investigation by the complaints commission. We believe we can and must do better.

I want to emphasize from the outset that the independence and impartiality of serious investigations will be maintained through the continuation of the special investigations unit, which will remain under the jurisdiction of the Attorney General.

There has been some concern expressed in the media and in the Legislature about civilian oversight of police and the changes we're making. Most of the concern has focused on one area: public complaints procedures. That is an important area, but it's also important for people to know that civilian oversight consists of more than just the complaints system, as some of our critics suggest.

Police services boards are and will remain civilian oversight bodies. The Ontario Civilian Commission on Police Services, OCCPS, is and will remain a civilian

oversight body. The policing services division of my ministry is and will remain an oversight body. All will remain and all will have their responsibilities enhanced by this legislation.

On the related but quite distinct matter of the police complaints system, Bill 105 will discharge two oversight bodies, the office of the police complaints commissioner and the boards of inquiry, merging the existing complaints and discipline oversight bodies into a modernized, streamlined and transparent system that is more responsive to complaints.

We intend to maintain the chief of police as the initial arbiter of public complaints about the conduct of officers, as he or she is under the current system. Experience has shown that the vast majority of public complaints can be resolved informally and locally and, if necessary, officers can be, and are, disciplined by the chief of police for their actions. Under the current legislation, almost all initial complaint investigations are carried out by the police service in question, and this will not change. The final report of the investigation is presented to the chief of police, who determines what action to take. This will not change.

Under our proposals, if a complainant is not satisfied with the chief's decision or the manner in which a complaint is being handled, he or she will be able to ask OCCPS to review the matter. Upon receiving a request for a review, OCCPS shall review the matter, taking into account any material provided by the complainant or the chief of police, and shall endeavour to complete the review within 30 days. This is the first time such time lines have been built into the legislation, and they are there to make the complaints system more responsive and accountable to the complainant.

Upon completion of the review, OCCPS may confirm the decision or may direct the chief of police to process the complaint as it, OCCPS, specifies, or may assign the investigation of a complaint to another police service. As well, OCCPS may at any stage in the complaints process direct a chief of police to process a complaint as it specifies or assign the investigation of a complaint to another police service. The police complaints commission does not have these powers.

It's correct that the police complaints commission may in some cases conduct its own investigation with its own civilian investigators and possibly refer the matter to a board of inquiry. It cannot, however, review and inquire into every step of the process the way the new OCCPS will be able to. The new OCCPS will also have the authority to conduct formal inquiries, complete with witnesses testifying under oath, into any policing matter that it wishes to examine.

Let me stress that the bill which has been introduced will both strengthen the system of police oversight while using taxpayers' dollars more effectively.

One point that has not gotten much notice is the fact that the legislation seeks to widen the complaints process to include the ability for the public to take issue with the policies of or services offered by a police service. As it is now, the only thing that you can complain about is the conduct of an individual officer.

This lack of notice has puzzled me because it is a very important point, and I want to stress it so that everyone

is clear about it: If a person believes his or her community is not being well served by local police, they will now have an avenue of redress other than an irate phone call or a letter to the editor. They can now file a formal complaint that will have to be dealt with by the chief with an appeal mechanism to the police services board. The board will now be able to hold the police service to account for the job it's doing. As I say, that strikes me as being a big advance for civilian oversight.

In addition to improving the system, we will also save taxpayers \$3 million every year. These savings will be realized by ending administrative overlap and duplication in the oversight system, not by compromising service and accountability.

**1020**

We're encouraged by the positive feedback we've received concerning these proposed changes to police oversight and governance. In fact, I received a letter from the London Urban Alliance on Race Relations, which I understand is scheduled to appear before the committee, saying: "We are most impressed with the changes being made. You are keeping your promises to the people of Ontario."

Where concerns remain, I believe the way to approach them is through a positive and constructive meeting such as the one I had on February 4 with the Community Coalition Concerned about Civilian Oversight of Police. I met with this group, they laid out their concerns, I responded to their concerns in writing and indicated an opportunity for another meeting following my initial response. I see a number of individuals who were at that meeting are also scheduled to appear at the committee.

In closing, I want to say that I strongly believe that the changes we are introducing will lead to fairness for taxpayers, empower local governments to make local decisions about policing and improve the system of police oversight and accountability. I believe these changes will lead to much-improved policing across Ontario and a safer province for us, our children and our grandchildren.

When all is said and done, my goal is to have the best legislation possible to enable the police to protect the public and meet the needs of Ontario communities in a cost-effective manner. I trust that the process the committee is now embarking upon will aid all of us in achieving the goals we all share. With that in mind, I look forward to hearing constructive suggestions from the witnesses appearing before this committee in the coming days.

**The Chair:** Thank you very much, Solicitor General. We have 15 minutes per caucus and we'll start off with the opposition.

**Mr Ramsay:** I'd like to thank the minister for being here today at the start of our deliberations on Bill 105. Minister, as you probably realize, I'm going to present a different point of view this morning; and I think, looking at our witness list over the next four days, we're going to hear another point of view too, and a little later I'd like to touch upon that.

I think this is a watershed in Ontario's judicial history in that you're turning back the clock on the reality and the perception of civilian oversight of our police services in Ontario. With this bill, the government is really destroying decades of work that many people have put



into developing a system of increased police accountability to the public. This has worked on behalf of the police also by having that system out there.

By weakening and almost abolishing our system of civilian oversight of police activity that handles our allegations of police misconduct in an open, fair and above-board manner, I think your government is sending us back to years and years ago when there wasn't the public confidence in civilian oversight activity in this province. By undermining civilian and external review of police actions, Bill 105 is going to undermine public confidence in the police.

I think you know that this lack of confidence that people have in a system is very similar to how politics works: The perception that the public has of the system is as important as the reality. My sense is that the introduction of this legislation changes that perception, not that the system was perfect to begin with, and we certainly could be streamlining and improving, but I think now, with the introduction of Bill 105, we are eroding the public perception and the confidence they have of a good, stringent civilian oversight of our police. I would think at this time you would want to build that public confidence and not destroy it. We find by the list of people who are coming to see us, and the various groups, that this eroding of public confidence in our civilian oversight comes from many of our minority communities in this province.

We know that this legislation is based on the McLeod report on police oversight. We knew that at first McLeod recommended rolling all the existing oversight bodies, including the SIU, into one. He also thought that chiefs of police should handle complaints against the police. I'm certainly pleased that you have backed away from rolling in the SIU with the other agency to be looking at police complaints. This was a faulty judgement to begin with on Mr McLeod's part and I'm glad you recognized that, because if we're to have any semblance of confidence in the police oversight system, certainly the serious complaints the SIU investigates, there has to be that perception that there's some independence from the very people who are going to be investigated. It's very important that separation be there. It was unfortunate that he recommended the emasculation of the SIU, but you've made that point and I'm supportive of that.

The rest of the McLeod report, though, is really very questionable, first off in that it came out of a very short, six-week study. It's nice in government to have very short studies — sometimes a lot of these reviews or studies take far too long — but six weeks was not very long. The announcement gave very short notice to members of the affected communities, such as minority communities, that were given only six days to prepare and submit their reports. I'm sure we're going to hear complaints about that in the next few days from these groups. That really is not long enough to get a public consultation and this lack of time for consultation reflects in the McLeod report.

This unrealistic deadline and the incomplete consultation of this report make it a very suspect document, yet the government is using it as the excuse to strip the civilian review process of its powers. This legislation

essentially ends independent investigations and effective civilian review of police conduct, leaving oversight of police in the hands of police chiefs. Alan Borovoy of the Canadian Civil Liberties Association, who is going to be coming before us soon, has stated, "This is the classic case of making the police umpires of their own game."

The highly transparent and accountable public complaints process that currently exists is being replaced by one in which chiefs of police will be almost entirely responsible for oversight of police. This legislation is clearly based more on finding ways to save money than on improving public access to the review process. While it's important that those of us with governmental responsibilities today work on saving money, it's also very important that the public have confidence in the various functions of government, policing being a very important one.

Under Bill 105, public complaints can only be made in writing by the person directly affected. What does this mean for many vulnerable people, including new Canadians who may not be able to prepare a written complaint? Maybe we should simplify and streamline the complaints procedure — I certainly don't disagree with that — but this isn't the way to do it. This new process sweeps away any semblance of civilian oversight and public accountability. This legislation creates the very real possibility that serious complaints about police will be swept under the rug.

Isn't it in the interest of police officers that the system deal with any misconduct in an open, fair and publicly accountable manner? Don't we want to build public confidence and trust in the police? This closed system will create mistrust and is not fair to the public or to the vast majority of police officers who conduct themselves responsibly. We're in favour of simplifying the procedure for making public complaints about police misconduct if that would improve public accessibility and confidence in the system. But this new process sweeps away any semblance of civilian oversight and public accountability.

I would like to turn my attention just briefly in the few minutes that I have left to the change in the assessment of police costs to municipalities that Bill 105 also takes into account. As you say, there's quite a bit of support in the province for this aspect, in that this starts to begin, I suppose, some fairness in how policing is paid for in this province and some equity in all the people of Ontario paying for it. One of the big concerns I have is that this adjustment, where the local OPP detachment will at least be figuring a per capita rate for all households in that detachment area, comes at a time with this additional downloading from this government.

#### 1030

One of those downloading changes is particularly onerous on rural townships with a lot of active farms, and I'm worried about the complication. We hear of a police fee of anything from \$200 to maybe \$300 per household in a rural township at the same time that rural township is going to be losing the 75% farm tax rebate that was paid directly from the government to farmers. Therefore, the municipalities are only allowed to assess farm land at a 25% rate, which is a tremendous download to municipal property tax that all home owners, farmers included, will

have to pay, coupled with this and all the other downloading the Harris government is bringing to the property tax system in Ontario.

My concern is that this is happening without a co-ordinated approach with all the other download impacts, and small rural townships are going to be severely impacted by this, and property taxes in those townships are really going to go up. We're seeing growing concern in the countryside about this, and I would ask that you look at restructuring this, maybe implementing this in a way that would be gradual rather than immediate, so as to not bring an increased burden immediately to property taxpayers right across the province.

**The Chair:** Thank you very much, Mr Ramsay. Do you wish to comment on it, Minister?

**Hon Mr Runciman:** If you have no objections, Mr Chairman. Clearly, on a number of the areas Mr Ramsay raised, we've agreed to disagree. I think the case is made quite clearly that we are indeed strengthening the oversight system. We recognize the concerns of various communities in this province with respect to continuing independence of the special investigations unit, and we declined to accept Mr McLeod's recommendation in that respect.

The fact is that we have built in time lines with respect to requiring responses and built in appeal mechanisms at every step of the process. I think the case is quite clear that oversight is being strengthened. You may certainly hear concerns with respect to this, and we haven't closed the door on changes. That's what this process is all about; the committee process as well.

In terms of notice — you mentioned the six weeks' notice — this is part of the process as well with respect to input and oversight. Our commitment as a party has not been a secret with respect to the fact that part of our election platform was a clear commitment to review police oversight, because the system has not been working. No one has been satisfied with police oversight in the past and clearly changes were called for.

You mentioned a complaint can only be made in writing by a person directly affected. That creates some confusion. I think we've broadened the accessibility opportunities for complaints. There are something like eight or nine police complaints offices in the province now; I think there are eight. We're going to allow complaints, under this new legislation, to be filed virtually anywhere across the province, through a friendship centre in northern Ontario, as an example. You can go in, and if you have a complaint about a police officer or a police service, you can have assistance in preparing that. You sign it and it can be faxed from a friendship centre office to OCCPS, as an example. I think we've improved opportunities in terms of accessibility to file complaints.

Overall, I recognize the concerns you've expressed related to the costing burden, but that's part of the complete picture with respect to restructuring of municipalities across this province as well, and we have built into this exercise funds that will assist municipalities. We are faced with short-term, if not long-term, challenges with respect to meeting these additional costs, so we are dealing with all of these issues with respect to transfers of responsibilities in a way that is looking at the total picture, not simply dealing with each issue in isolation.

**Mr Ramsay:** Minister, when you mentioned funds coming to municipalities to adjust the policing cost, is this part of that community adjustment fund of over \$1 billion that was announced? Is that what it was?

**Hon Mr Runciman:** It could be. It could be part of that.

**Mr Kormos:** Thank you, Mr Runciman. Perhaps I should speak to the downloading of Ontario provincial policing costs on to a huge number, 576 municipalities, admittedly some of them of significant size in terms of small-town Ontario, but the vast majority of them very small and, as has been indicated, rural Ontario.

I appreciate that you point out that the prospect of every community paying for its own policing is not an inequitable one. I don't think anybody disagrees with that as a general principle. The fact is that yes, I recall when the last government contemplated developing a means whereby these 576 municipalities would assume responsibility for the cost of the Ontario provincial policing. At the end of the day, under the conditions that Ontario found itself in, one of the considerations of the last government was that this shift of costs in those circumstances would be unduly harsh.

What I find interesting is that your own discussion paper, the one from May 1996, Review of Police Services in Ontario, it stated, "Since property tax is the largest source of revenue to municipalities, it is likely that many of the 576 municipalities" — these are the ones for whom the downloading of OPP policing costs is going to occur — "will raise property taxes to finance the costs of police services in their communities." That same report goes on to say, "Regardless of the mechanisms for allocating and/or phasing in the costs of OPP service it is likely that any increase in property taxes could create financial hardship for some of these municipalities."

Those are two observations that I don't think any of us can quarrel with. I don't believe there has been an adequate consideration of the impact of the downloading of costs at the same time that there's been a significant downloading of other costs. I appreciate that the government's argument is, "Ah, but we've saved you from the costs of traditionally municipally financed education." The numbers appear to be becoming stronger and stronger to the effect that this downloading is going to constitute a net loss for virtually every municipality in Ontario, and that's certainly the case for Niagara region where the downloading is going to cost regional property taxpayers some additional \$73 million in property taxes.

I would also ask you to consider that there would appear to be downloading of Ontario provincial policing costs anticipated in municipalities other than these 576, and I'm speaking about those sections of provincial roadway that would appear to be designed for relief from OPP policing and transferred on down to regional or municipal policing. Again, the added cost will depend on the amount of roadway, the number of kilometres.

As well, we're talking, with some of these 576 municipalities, about municipalities that are small in population but where the policing handles huge volumes. We're talking about municipalities on the Trans-Canada Highway, we're talking about municipalities that are very much a part of the tourist infrastructure of the province,



where there is a huge number of people using the communities and using the roadways who aren't residents in those communities, where you have exceptional populations, let's say, during summertime, traditional vacation periods.

Perhaps you have this data, but I wish you'd tell us, and if you can't today, as soon as possible, what is the cost going to be to these 576 municipalities? What is the cost of the downloading going to be? If you can tell us the cost, I would expect then that the money that the OPP anticipates recouping would be a comparable figure.

1040

We also have to consider how you are going to cost these out to communities, to municipalities. Some which have huge geographic areas and small populations may have a different costing structure than some that are smaller geographically and have higher populations. So, although appreciating your argument about the fairness of that, sometimes this government's been just whacking communities left and right with its sense of fairness — it has. "Here's another blow for fairness, and once we've got you down, we'll put the boots to you for the sake of fairness." There are a whole lot of municipal taxpayers who simply can't afford your kind of fairness right now.

Another interesting thing about this bill is that it has drawn me into the most peculiar position of finding myself in agreement with a Toronto Sun editorial of March 10. Either I'm in trouble or one of their editorial writers is in trouble, because the Toronto Sun editorial reflects in a very reasoned and cautious way on subsection 113(9), the fact that our committee debate and discussion about this bill, legislation put forward, isn't going to deal with or address the issue of a requirement of police officers to fully cooperate with SIU investigations. The Sun article indicated: "Police officers ought to enjoy the same legal protection against self-incrimination as do all Canadians. On the other hand, we do give our police guns and the authority to use them." The issue that's raised there is one that is going to be raised, I trust, by a number of participants in these hearings and it goes very much to how effective and meaningful the review of police actions is going to be.

I should tell you that we agree strongly that it's imperative that there be civilian oversight of police action, that actual accountability at the end of the day is more important. I appreciate and I don't disagree with some of the other comments this morning, but it's still more important than the mere appearance of accountability. Quite frankly, it was the community coalition, and you are familiar with them, who said the importance of citizen review of police is not merely to restore credibility to the police and maintain a particular image of policing; instead, it is to ensure that police are actually held accountable for abuse or misconduct.

Yes, you have taken us back to what not very many people recall any more as the good old days. You have, with this legislation, placed considerably more power in the hands of the chief of police. I tell you, critics of this bill from various perspectives have noted that with some concern and alarm. It has been pointed out in the course of three deadly shootings in the province. In all three instances chiefs of police, or in one of them the commis-

sioner of the OPP, were quick to come to the defence of the police officer under investigation. I'm not quarrelling with the fact that chiefs of police may find themselves — and this is exactly the point of the criticism, Solicitor General, of this delegation of exceptional powers to the chief. I'm not concerned so much about the fact that the chief of police might feel inclined to come to the defence of one of his or her officers. I'm acknowledging that as on the one hand perhaps a natural phenomenon, but one which very much supports criticism of your delegation of such extreme powers to chiefs.

As I say, the criticism of that new delegation of power to chiefs or that redelegation of power to chiefs is echoed from across the community, because recently, in February, Metro Police Constable Roy Rawluck, speaking to a meeting of the Metro police services board said, "My concern revolves about legislating considerably more disciplinary power to chiefs of police." The constable then pointed out that, to use his argument — and we don't dispute this — it's unfair that under the proposed legislation the chief could find an officer for what was termed "unsatisfactory work performance" without a hearing, and an officer's right to a trial under the present legislation would be gone.

So concern about this redelegation of power to chiefs of police has arisen in a complete cross-section of the community. I hope there will be reconsideration of that by the government during the course of these hearings.

You know there's been criticism of the process around the McLeod report, the McLeod considerations. The Premier, your party leader, responded to a coalition letter, a request from the coalition, stating that the staff of the Attorney General and the Solicitor General would be thoroughly reviewing the McLeod report and that you, Mr Runciman, would welcome comments on the report and recommendations prior to introducing the changes to the Police Services Act. Notwithstanding that promise — that's what it was from the Premier, a promise that you would receive comments from them — you only agreed to meet with the coalition after the amendments and the bill were a done deal by virtue of a report.

*Interjection.*

**Mr Kormos:** Well, the coalition is going to be here. I appreciate your comments on that.

You know what it's like not to be consulted. We've heard you publicly decry the lack of consultation over the proposal to shut down the Brockville Psychiatric Hospital, and I was on your side when you raised a hue and cry about that lack of consultation, I was behind you all the way. If you had asked me anything you wanted me to do for you to protest that heavy-fisted lack of consultation, I would have been right there beside you. If we'd had to take video cameras somewhere, we would have gone with video cameras, I tell you.

You know what it's like to be left out of the loop on consultation. The community coalition — and they're going to be here, and I'd appreciate your response because then we'll hear from them as well — feels they were very much deprived of an effective and meaningful consultation role during the course of the McLeod report and that they had — and I think they have — some

valuable comments to make about the need for civilian oversight.

Thank you, Chair. Does Mr Christopherson have —

**The Chair:** You have one minute if you wish to make a statement.

**Mr David Christopherson (Hamilton Centre):** It's about the only way you could limit me to a minute. Thank you for the opportunity. I would just echo the comments my colleague has made about the concerns of the oversight. I'd like to put a little emphasis on the change to the makeup of the police service boards. I think this is an important issue that's not receiving the attention that the end of the hearings will show it deserves.

To be very blunt, Minister, I think it's a sop to AMO to try to buy them off for all the other downloading and dumping that you've done with them, because I think we're going to hear from police officers, their associations, chiefs of police, the Ontario Association of Police Service Boards across the issue that they're opposed to this, that it's not in the best interests of policing in Ontario. I think that's an area you're very vulnerable in, in terms of the changes you're making and the shift of responsibility, and at the end of the day that will give us a weakened police service in Ontario, not a stronger one.

1050

**The Chair:** The government caucus now has 15 minutes. Perhaps the minister would like to answer some of the questions that arose from the third party.

**Hon Mr Runciman:** All right, on the understanding that the third party doesn't get an opportunity to respond. Just kidding.

With respect to the inability to consult appropriately, as the member has suggested, with the particular group within the Metro area, the coalition, every effort was made to arrange meetings prior to the tabling of the legislation and for a variety of reasons they weren't able to take place. On one occasion it was my schedule but on two or three other occasions it was the schedules of the various participants in the coalition. The efforts were made to arrange that kind of a consultative opportunity and a meeting has taken place, as you indicated, subsequent to the changes being announced.

I've indicated that these are not etched in stone, that we're quite open to hearing their views and suggestions. They made their proposals to me; I responded to them in writing. I indicated to them at the time of the meeting that once they've received my comments, we can have their feedback, we can get together again and discuss that and pursue that. I have not heard back from a spokesperson or spokespersons with respect to a follow-up meeting, but certainly I've afforded that opportunity to them and that offer stands.

One other area: I know you mentioned the duty to cooperate, although you didn't say it in so many words. That is an issue I'm sure you will hear about during the process of these hearings. We have recognized that concern and we will be continuing to address it.

Extreme powers to the chiefs: I don't share that concern. Clearly there may be some room for movement there but we want to hear the input of all involved, and the fact that there is a cross-section of concern with

respect to some of the oversight changes and the powers of chiefs, as you describe them, may indicate that we've found a good middle ground here, if indeed that's the case. Again, we approach this with an open mind, we'll hear the views, and if they have merit, I commit to you that we will indeed make changes if they're clearly called for.

I don't think there's anything else here, Mr Chairman, that I could respond to at this point.

**The Chair:** We have some government questions.

**Mr Klees:** I'd like to quickly follow up on Mr Christopherson's point relating to the change in appointment to the police services boards and perhaps you can help us out in terms of giving us some background and rationale for that change. I have to say that I share some concern myself — as you know, we've had some discussions on this — about ensuring that the public interest is truly well served on that board, that we avoid political overtones in terms the appointments. Can you help us to understand the reasoning for this change in appointments?

**Hon Mr Runciman:** I think we've all appreciated the concerns that have existed for some time with respect to the question of political interference in policing. You also have to look at the side of the equation with respect to the fact that the municipalities are paying for policing out of their property tax base, so there is a clear connection with respect to responsibility and accountability. We think we've addressed the accountability and responsibility question by allowing the majority of representatives to PSBs to be appointed by the municipality. These are going to be community representatives. They're not going to be allowed to be councillors and have that direct linkage to the elected body. That addresses one of the concerns.

We're continuing to have provincial representatives in minority numbers appointed because we strongly believe there is a continuing provincial responsibility, and that will be voiced through the provincial appointees to the boards.

The municipalities for some time, in many instances, wanted to do away with police services boards, but we see them performing a critical function in terms of oversight of police services management functions and all of those things that they have continued and are having enhanced with respect to oversight under this legislation.

There may be one other issue here that I should be touching on. I don't know if that adequately answers your question, Mr Klees. Is there any other specific area of concern?

**Mr Klees:** Are you saying that with regard to that additional appointment there are some restrictions in terms of who can or cannot be appointed by the municipality, that there is some underlying assurance that there will be representation from the community, that it won't be skewed to the political agenda of the municipality?

**Hon Mr Runciman:** That will be the case. We're still going to have the oversight function performed but we're going to have the policing advisers who will be monitoring the activities of police services across the province if there's a problem. We have the OCCPS complaints process if indeed there's a concern about politics interfering in the process. I think we've built in appropriate



safeguards. We are clearly outlining the fact that councillors cannot be appointed with respect to making up these additional representatives on the board, so I feel quite confident that is not going to be a problem, and if it does crop up as a problem in any given community, we have the power to intervene and ensure it's corrected.

If you look across some of the history with respect to the operations of police services boards, many of these so-called controversies that have erupted on occasions have not been perhaps motivated politically from the municipal level but more so perhaps from the provincial level, and some very serious concerns about the motivations and agendas of appointees from the provincial perspective. I don't want to get into specifics but I think for all of us who are familiar with policing issues over the years a few examples will quickly jump to mind.

I think we've built in enough protection. The municipalities have the right with respect to the fact that they are paying the freight and they should have the majority representation on the boards. This is long overdue. I think we have avoided the pitfall that certain municipal associations and some municipalities wanted us to step into, and that's simply either doing away with boards or allowing all of the appointments on the boards to be made by municipalities. We've recognized the continuing provincial interest and that will be represented through minority appointments.

**Mr Gary Carr (Oakville South):** My question relates to something that I think will be coming up as we go through this process as well and that's the issue of adequacy and what that will mean. Could you maybe give the committee some idea, as we go through this, what we're going to be talking about in terms of adequacy through the regulations that will be put in place and how you see that? Because that, as we go through, maybe is of concern to some people as well.

**Hon Mr Runciman:** It is going to be an extremely important element of how this resolves itself at the end of the day with respect to how we define effective and adequate policing because it's a key ingredient of the changes we are proposing. We intend to go through a very extensive consultative process. Some initial steps have already been undertaken with respect to that, and at the end of the day it is my intention to have some opportunity for public consultation with respect to these proposed changes as well. We have some time lines to meet with respect to how we proceed but I want to have as wide an opportunity provided for input into the definitions as is possible, given the time lines we're faced with. I don't think I can be any more specific than that, Mr Carr, at this point.

If I have the opportunity of a minute or two, Mr Kormos raised the question of equitable financing. I should put, in fairness to the current government, the position of the former Solicitor General. I'm quoting the then Solicitor General, Mr Christopherson, from the Ottawa Citizen of 1993:

"It is our intention to implement equitable police financing, which means all Ontarians pay their fair share of policing, and right now we don't have that. We'd like to obviously do it as quickly as possible because we'd like to institute fairness, and clearly the province needs the revenue."

We should put that in context with respect to the comments Mr Kormos made related to his current position on equitable financing.

1100

**Mr Kormos:** I was quite clear about that. It's a shame about the photo-radar, the revenue.

**The Chair:** On behalf of the committee, I thank the Solicitor General for attending here today.

#### MINISTRY OF THE SOLICITOR GENERAL AND CORRECTIONAL SERVICES

**The Chair:** Next, we are to have a briefing by the Solicitor General's staff. We have set aside up to 90 minutes for a briefing. How does the committee wish to proceed? Do we want questions as we go along or would we prefer to hold our questions until the end of the briefing? We have not decided that. The subcommittee did not deal with that topic.

**Mr Ramsay:** I always find with these sorts of things, when they're especially highly technical subjects such as this, that maybe as we go along to answer questions, when they're fresh in mind and a discussion could ensue, is probably the way to go.

**The Chair:** Fine. Is there any objection to proceeding in that manner?

**Mr David Tilson (Dufferin-Peel):** We might not finish the briefing in that case. The problem when you do that is you can get stuck on one point, as opposed to allowing the people to finish their presentation. I quite frankly think, Mr Chairman, it would be more appropriate to allow the people to finish their presentation and then allow for questions. Otherwise, we may never finish it.

**Mr Kormos:** Would the Chair rule?

**The Chair:** I think this is important as to the method of proceeding and I think we would have to deal with it by resolution, unless we can have a consensus.

**Mr Ramsay:** Chair, my sense is that any questions obviously to staff are going to be only of the nature of clarification. It's not a debate. It's only if I don't understand something, then I'll want to ask a question as to what the meaning of that is or how that is going to work, but we're not going to get into big debates, because this is what the act is and the staff are here to give us an overview.

**The Chair:** Perhaps we can try it then. We'll try it for a little while, to see if it's not misused. There's no one here who would misuse that privilege, I'm sure, so we'll give it a try. If you would proceed, and if you could identify yourselves for the purpose of Hansard.

**Mr Fred Peters:** I'm Fred Peters, the assistant deputy minister, policing services division.

**Ms Anne McChesney:** I'm Anne McChesney, counsel in the legal branch at the Ministry of the Solicitor General.

**Mr David Burnside:** I'm David Burnside. I'm counsel at the Ministry of the Solicitor General and Correctional Services.

Perhaps we could start by looking at Bill 105. Initially, you'll notice there are some amendments that were necessary. Because parts V and VI of the Police Services

Act are being repealed by Bill 105 and replaced with a new Part V, it's necessary to redefine "board" and "commissioner" so as to clarify that "board" is referring to a police services board and "commissioner" only to the commissioner of the Ontario Provincial Police.

A further amendment is to change reference in the act from "a bylaw enforcement officer" to "a municipal law enforcement officer." The reason for this is that it existed as such in the Police Act, which was in force from 1946 to 1990. Also, it reflects the fact that these individuals enforce more than bylaws; in fact, they enforce some provincial statutes.

We have defined "community policing advisory committee." That is a new concept that I'll touch on a bit further when we get into how the policing by the OPP and the new equitable finance of policing actually takes place. There is a role for individuals to give advice to OPP detachment commanders as to the policing in their community.

Section 4 is the first major change that has occurred. You'll notice on page 2 of the bill that there is now a requirement and a definition as to what "adequate and effective policing" is. There are five core principles that are set out: crime prevention, law enforcement, assistance to victims of crime, public order maintenance and emergency response. Those are items that each municipality will have to address. Also, there is a requirement to have the necessary administration and infrastructure to support those five core principles.

There have been amendments to section 4, some of which don't actually appear in the section. If you look at page 42 of the bill, you'll see in section 41 a change to the District Municipality of Muskoka Act where the exemption that previously existed for Muskoka is now being removed, so Muskoka will be responsible, like other municipalities in the province, to provide adequate and effective policing.

There is also an amendment, again on page 42 of the bill, that changes the Regional Municipalities Act and that would require the regional municipality of Haldimand-Norfolk to assume responsibility for policing the entire region.

Section 5 of the act, as amended by the bill, sets out the various methods by which a municipality can provide adequate and effective policing. That is by having their own force; by having a force with another municipality through a joint board; by amalgamating their force with another municipality's force under section 6; by having an OPP contract under section 10; and we've carried forward the current provision that exists in subsection 5(5), which is, with the commission's approval, to have a different method of policing.

Section 5.1, which is introduced to the act by Bill 105, is the provisions relating to OPP policing and the recovery of costs for that policing. It allows for a regulation to be passed setting out the costs of the OPP policing and it allows for a mechanism of collection of those costs if in fact they are not paid.

As I indicated earlier, there will be a community policing advisory committee that is not mandatory but optional, and all of the municipalities that are receiving this OPP type of policing on a default mechanism will be

able to appoint a community individual who will serve on this committee and provide input to the OPP detachment commander in order to assist in ensuring that the local community policing needs are met.

We have in section 7 clarified the sharing of services among boards and we now provide that two or more boards may agree to share services, but not all of the services. It's considered that a decision as to how policing is going to be undertaken should be a decision of the council of a municipality and not the board. The board is entrusted to ensure that the policing in that municipality is carried out. The board will be able to agree to share such services as canine or communications but not the entire service.

We have amended some provisions in the section 10 OPP contracting provisions and we've broadened it so that more than one municipality could enter into a contract with the OPP. Right now, it's a one-on-one contract situation. Now it may be possible for two or more municipalities to get together and have one contract for their area. There is currently a requirement in subsection 10(2) of the act that the police services board consent to this agreement. That is being changed to require that there is a board, but no consent is required.

There's a transition provision to take into account that there are some OPP contracts that exist today where the municipality does not have a police services board, and the intent of this amendment is to ensure that at the end of that contract, when it's being renewed, there will have to be a police services board put in place and any new contracts will require a police services board.

The legislation in subsection 10(9) expands somewhat on the duties of a police services board in an OPP contract situation. The various responsibilities set out in subsection 10(9) more closely reflect the responsibilities of a municipal police services board, which is set out in section 31 of the Police Services Act.

I will point out at this time for the members' consideration clause 10(9)(c), which allows for the police services board to establish local policies that may affect their particular community and it is these local policies that will come up again later on when we discuss the oversight provisions. These local policies are the ones that can be complained of by the public under section 61 if they so wish.

There is a further provision in subsection 19(3) of the act, which is found on page 7 of the bill, which is discretionary and allows that the Ontario Provincial Police "may, with the approval of the Solicitor General, charge a municipality" for services that it provides under this act. That provision is provided in conjunction with the mechanism for equitable financing to ensure that municipalities are not able to establish their own force but rely on the OPP to provide all of the specialized services.

**1110**

**Ms McChesney:** Under section 21 of the act, the Ontario Civilian Commission on Police Services is continued under the same name with some additional powers, as we'll see, primarily with respect to oversight of police conduct.

Cabinet may appoint the members of the commission. This is a change from the current act, where the numbers



are set out in statute as not fewer than three and not more than nine.

Under subsection 21(3), cabinet may appoint "one or more members of the commission to be vice-chairs." There was no provision in the Police Services Act for appointment of vice-chairs.

Under subsection 21(5), the chair may authorize either a member of the commission or an employee of the commission to exercise the commission's powers and duties, but there are some exceptions with respect to the kinds of things that cannot be delegated.

The chair can "determine the number of members of the commission that constitutes a quorum." The Police Services Amendment Act provides that the chair "may determine that one member constitutes a quorum." At the present time, the act has two members constituting a quorum.

Section 22 of the act is repealed and replaced to set out the new powers of the commission. The commission may conduct inquiries on its own motion, either in respect of a complaint about police services or policies provided by a police force or a complaint about conduct of an individual police officer.

The commission may also conduct reviews of a chief's decision at various key decision points in the complaints process, and we'll be reviewing those in more detail. For example, where a chief decides not to deal with a complaint because it is, in his or her view, frivolous or vexatious, a complainant may ask the commission to review that finding.

There are other key decision points that we'll take you through when we get to part V.

The commission also has power to make recommendations with respect to the policies or services provided "by a police force by sending the recommendations to the Solicitor General, the chief, the association, if any," and the police services board in the case of a municipal force. To some extent that reflects the powers currently assigned to the police complaints commissioner.

The Statutory Powers Procedure Act applies to govern procedure in hearings conducted by the commission. In respect of investigation or inquiries, not hearings, the commission will continue to have the powers under part II of the Public Inquiries Act.

**Mr Burnside:** The major change that has occurred in section 27 which relates to the municipal police services boards relates to the new provision for an appointment of what is called a community member. Whether a board is of a size of three, five or seven, which are the three different composition numbers, instead of having a majority of those members appointed by the Lieutenant Governor in Council, they will now have a minority appointed by the Lieutenant Governor in Council. There will be a continuation of the representatives of members of council, but in addition, there will be one person appointed by resolution of council who is neither a member of the council nor an employee of the municipality, and that individual will effect the operation of the police services board. As I indicated, whether it is a small board or a board of the size of five or seven, with equal representation from the council or the province, the additional member will be the community member.

The provision that currently exists in 27(13) of the act excludes a judge or a justice of the peace from being a member of the police services board. That's now been expanded to include a police officer, as well as a person who practises criminal law as a defence counsel. In addition, there is a provision that a person who is a member of a prescribed class of persons can also, by regulation, be excluded as a member of a municipal police services board.

In section 28, there was a provision that annually the police services board appoints a chair. We have now expanded that to allow for the police services board to also appoint a vice-chair who can act in place of the chair when the chair is not there.

We have, in addition, expanded the provisions relating to joint boards under section 33. Joint boards, as I indicated earlier, are in situations where two or more municipalities get together, either through an amalgamation of existing forces or through the creation of new forces, to have police forces that are shared between those municipalities. They will have a joint board, and it's necessary for the councils that are sharing policing to agree who are going to be the representatives from their own councils. They have to also agree who is going to be the community representative and then the balance, much like in the section 27 municipal police services boards, will be appointed by the Lieutenant Governor in Council.

There is a provision under 37, which is found on page 13 of the bill, that allows for the board to establish its own rules and procedures. This may in many instances allow the board to adopt procedures which they develop themselves or that reflect the procedures of the local municipal council. However, when we get into the oversight provisions, and particularly in section 64, which deals with the police services board role in relation to complaints of conduct against a chief or a deputy chief, the board will be in a position where it can conduct a hearing, and when it does so, it is required to conduct a hearing pursuant to the Statutory Powers Procedure Act, which sets out a codification of minimum rules of natural justice.

Section 39 is the budget provision. There is some modification to the budget provision to clarify that the board is responsible for submitting estimates to council. It is then council's decision to establish a budget, and there is a review mechanism that the board can ask the Ontario Civilian Commission on Police Services to address the issue of the budget if there is disagreement between the board and the council.

**1120**

**Ms McChesney:** Part IV of the act deals with the duties of a police chief and a police officer. Section 42 appears at page 14 of your bill. Section 42 is the section that sets out the duties of a police officer. The bill amends that section so as to remove as a duty a police officer's requirement to prosecute offences. Participating in prosecutions remains a duty of a police officer.

Subsection 44(3.1) makes it clear that the complaints part does not apply in the case of the termination of a probationary officer's employment.

Subsection 44(4) has been changed so as to recognize service with other police forces for the purpose of

calculating probation in a municipal force. Prior service with the OPP, the RCMP or a prescribed police force outside Ontario will be taken into account for the purpose of calculating continuous service with a municipal force.

Section 49 appears at page 15 of your bill. That's the section of the Police Services Act that sets restrictions on secondary activity for police officers. Those restrictions have been expressly extended to the police chief, and the chief has a requirement to disclose to the board any proposed secondary activity that might interfere with his or her employment or constitute a conflict of interest.

Section 52, dealing with auxiliary constables, has been amended to give the Solicitor General, instead of the commission, the power to approve the appointment of auxiliaries. A similar amendment has been made to section 53, dealing with special constables, so as to give the Solicitor General rather than the commission the power to approve appointments.

Part V is the substantive part dealing with complaints. I'll give to the clerk two charts which may be helpful to the members of the committee. Page 1 deals with the complaint system or civilian oversight model as it applies to police officers, and we'll be focusing on that as we go through part V. Page 2 is the chart that shows how complaints are dealt with with respect to chiefs of police. If we follow along with page 1, that might be helpful, starting at the bottom of the page.

Under section 56 of the act, any member of the public may make a complaint about the policies of or services provided by a police force or about the conduct of a police officer. An internal complaint may also be lodged by a chief against a police officer. The complaint need not be entered on any particular form, as is currently the case. The complainant need only submit his complaint in writing and signed. The complainant may deliver the complaint to any station of the subject police force in person or by an agent if he prefers. He may mail it in or fax it in or give it to the Ontario Civilian Commission on Police Services, which then sends the complaint along to the chief of the force in respect of which the complaint is made.

The chief is then faced with making a number of classification or initial streaming decisions, if you will, as to what type of complaint this is. The complaint may, as I say, be about the conduct of a police officer, in which case we'll hear how it's investigated. You'll see the box dealing with conduct in the procedure that follows as you move up the chart from the bottom to the top. Alternatively, the complaint may be about the policies of or services provided by a police service, and we'll take you through the procedure at the right-hand side of your chart.

Initially, the chief may conclude that the complaint is either frivolous or vexatious or that the complainant isn't directly affected, in which case the chief may decide to take no action. The complainant has the right to request the commission to review any of these decisions, and the commission, as we'll hear, has the power to order the chief to process the complaint as it specifies.

Just before we begin to follow along on the investigation of the complaints, we should point out the line of boxes at the very left-hand side. Those deal with the

work of the special investigations unit, which, as you know, has not been amended by this bill. The special investigations unit will continue to investigate serious injuries or deaths and will continue to remain under the jurisdiction of the Ministry of the Attorney General.

**Mr Burnside:** One of the initial decisions that a chief has to make upon receiving a complaint is to determine whether it relates to the conduct of a police officer. As we'll see when we review section 63, conduct includes misconduct as well as unsatisfactory work performance. It's also possible that the chief may decide that the complaint really is about the policies or services of the police department, and again, it's possible that the complaint may touch on both, in which case the complaint will possibly go up two streams at the same time.

If the complaint is about the service or policy of a police service, it can be reviewed by the chief, as you'll see on pages 20 and 21 of the bill, and the chief will look into the matter and see what action or no action needs to be taken and will advise the complainant what has happened. There is a requirement that this has to be done within a certain time frame. If the complainant is not satisfied with the way the chief has dealt with a service or policy complaint, there is a mechanism that the complaint can be reviewed by the police services board. The police services board, in reviewing that complaint, could hold a public meeting in order to air the complaint in public.

If the complaint relates to an OPP contract situation, as I alluded to earlier, it's possible under clause 10(9)(c) for a police services board to establish local policies relating to the OPP policing. If the complaint is about one of those local policies, then the detachment commander will review the matter and decide what action or no action needs to be taken. Again, there is a review mechanism which will then allow that complaint to go before the local police services board for a determination.

If the complaint about policy or service relates to OPP policing policies in general, that's policing policies of the Ontario Provincial Police, those complaints will be funnelled to the commissioner and the commissioner will make a determination as to what kind of action will be taken.

As we indicated, when a complaint is determined to be about the conduct of a police officer, then that complaint will be investigated, and there are a number of things that can occur as a result of that investigation. It could be that it's determined that an offence has been committed, in which case the matter will be referred to a crown attorney and perhaps a charge may be laid against the officer, or the investigation could result in a determination that the complaint is serious, not serious or unsubstantiated.

If the complaint is considered to be unsubstantiated, the complainant will be advised of that, and there is a review mechanism whereby that complainant can ask the Ontario Civilian Commission on Police Services to review that. The commission could decide to sustain the decision that it's unsubstantiated or the commission could order that the chief process the complaint either as a serious or non-serious complaint.

1130

**Mr Christopherson:** Chair, are you entertaining questions along the way?



**The Acting Chair (Mr Ed Doyle):** I believe that was the ruling earlier, yes.

**Mr Christopherson:** Then if I could just ask a question to clarify, when the commission reviews the decision, is there any change in the tools available to them in terms of how they can review that? Can they still do all the things they otherwise would have done in terms of a hearing, an investigation, review of the record, or is there now some limit as to what they can do when they review it?

**Mr Burnside:** The review that's contemplated at this stage of the complaint process is without a hearing and it's based on materials that have been received from the police chief and the complainant. The commission has reasonably brought powers to direct that the complaint be dealt with either as the chief has decided or dealt with differently. That's to be distinguished from appeal provisions, which can happen at the end of the day. If it's a serious matter and it goes to a hearing, then there are appeal rights which will be similar to a hearing that exists now with OCCPS, and that would be a hearing on the record with fresh evidence.

**Mr Christopherson:** At this stage of the review, though, is that a change from the existing procedure or not?

**Mr Burnside:** As far as the review mechanism is concerned, it represents part of a check or balance. It's a new concept introduced into the oversight model to ensure that key decisions that are made by the chief can be reviewed by a provincial body and determined whether they should stand or be changed.

**Mr Christopherson:** I'm sorry, I'm not getting it entirely clear. Is there any change at all in terms of tools available to the commission at this stage of a review of a chief's decision, or are all the tools available to them that they had under the current law still available?

**Mr Burnside:** You mean as far as the powers they have —

**Mr Christopherson:** To investigate and to hold a hearing at this stage. I was just trying to be clear as to whether or not they have that power now, and if they do, if it's continued, or if it's not there under the new legislation, if that's because it wasn't there in the first place.

**Mr Peters:** I think there may need to be a distinction. Currently the Ontario civilian commission is not involved in the complaints process, so the review mechanism now is essentially giving to the commission a new set of review powers. The commission does have powers in law now dealing with institutional oversight; those remain unchanged. But I think it's fair to say that the review mechanism contemplated under the complaints process gives the commission new powers of review. As David mentioned, the review is a file review; it's not intended to be a formal hearings process. That possibility exists should the matter proceed and go through the serious and more formalized hearings process.

**Mr Christopherson:** How does that differ from what's there right now?

**Mr Peters:** Should the matter proceed to a formal hearing, in terms of charges under the Police Services Act, the power that's contemplated under this regime and

the power that the commission has now are fundamentally the same in terms of the process. The thing that is new is giving the commission a review authority of decisions made by the chief of police around the treatment of a complaint.

**Mr Christopherson:** Then perhaps to make it easier, when there's a shift either adding to or taking away from the powers of the commission to either hold investigations or hold hearings, if you would point that out for me along the way, that would be helpful.

**Mr Klees:** I'd just like to follow this up if I could. I'm still not clear as to what authority the commission will have at this stage to request additional information that may not be in the file submitted by the complainant. Does the commission have the authority to request any additional information?

**Ms McChesney:** Under section 71, the commission has broad powers of review and it's permitted to take into account any material provided by the chief or board or complainant. In my view, that language is broad enough to give to the commission the power to review a range of documents, not just the initial complaint form.

**Mr Klees:** All the authority the commission has, it can bring into this initial review process. Is that what you're saying?

**Ms McChesney:** Yes. The chief may determine that the misconduct or work performance is either of a serious or a non-serious nature. If the chief determines that the conduct is not serious, then the act provides for a new way of dealing with these kinds of complaints. Where the conduct is determined to be not serious, the bill permits, under section 63, the parties to try to informally resolve the matter. That may just mean an apology from the officer, it may mean an explanation, but it's an opportunity for the complainant and the police officer to try to deal with the complaint outside of the discipline process.

**Mr Carr:** Sorry to interrupt as you're going through this. Could you explain the process of deciding serious and non-serious so that people will understand what that means? Could you go through that and give us some indication how you're going to decide serious and non-serious?

**Ms McChesney:** The code of conduct as it currently appears in a regulation under the Police Services Act sets out a series of offences. Some of the offences in the code of conduct are clearly not serious offences. There are offences that haven't been changed for 50 years. For example, idling or gossiping on duty is one on the list of offences for which an officer could be subject to a hearing under the current scheme. The bill changes that by introducing new provisions that permit non-serious conduct to be dealt with through the grievance procedure, and that non-serious conduct will be set out in a regulation in a revised code of conduct. What we'll see then is a much-changed code of conduct.

If the informal resolution is not successful under section 63, then the chief may proceed to discipline the officer.

**Mr Kormos:** I was listening very carefully to your understanding of subsection 71(6) of the bill, section 34 of the amendments here. I'm taking a look at subsections 71(6) and (7), and this seems to be a very restrictive role

for the OCCPS, "The commission shall review the decision, taking into account any material provided by the complainant or the chief of police, detachment commander or board...." That's very restrictive, because then they have secondary powers, they can refer it out to another police force, right?

**Ms McChesney:** Yes.

**Mr Kormos:** But they would need grounds to do that if on its face — we've been toying with the phrase "prima facie" here up at Queen's Park ever since the Minister of Municipal Affairs was found in prima facie contempt of the Legislature. A whole lot of people went running to the dictionary and looked up "prima facie," because he was charged with prima facie contempt of the Legislature.

If there's a prima facie supportable decision under subsection 71(6), the OCCPS seems to have very limited power if on the basis of the material there appears to be an investigation and the decision made was supported by what it had. You're not suggesting that the OCCPS is going to be allowed to use its powers under subsection (7) in an unrestrained or an open-ended review.

**Mr Burnside:** I think they would use their powers under subsection 71(7) in circumstances that would warrant it. If they felt that it was necessary to have the complaint investigated in a different manner, they could so order. I think we should also look at the powers the commission has under section 72 of the act; on their own motion, they can look into matters. I think there is a role for the commission, a very viable role, in a sense to review decisions that are very key and critical decisions in the complaint process.

**Ms McChesney:** To some extent, these reflect the powers of the police complaints commissioner, who, as you know, has a role in reviewing the decision of the chief. It has the same kind of language.

**Mr Kormos:** All I'm suggesting is that this is a very narrow role for the OCCPS. You obviously don't agree that it's as narrow as I perceive it, and that's okay.

**Ms McChesney:** The consequences actually are much broader. The current police complaints commissioner may only confirm the chief's decision or send the matter on to a board of inquiry, but under section 71, the new civilian commission on police services is permitted to do other things. It can specify how a complaint should be dealt with, it can assign an investigation to another force or it could confirm the chief's decision. I see that as being a broader power because the consequences are greater than currently enjoyed by the police complaints commissioner.

1140

**Mr Kormos:** You know the groups coming, the coalition and a whole lot of other people, are going to say, "We've still got the police investigating the police" on the basis of this model, because the OCCPS could only refer it back to yet another police force if it makes a determination under 71(6) that the initial investigation was somehow delinquent or fell short. Maybe you're working on amendments to that right now. You can tell us if you are.

**Ms McChesney:** I think I'd prefer to continue on the chart. As I say, the grievance procedure is a new one, not currently found in the Police Services Act. If a police

officer objects to the summary resolution or penalty that's imposed by his chief, he can grieve the matter in accordance with the collective agreement.

**Mr Burnside:** I would point out that on the non-serious stream the maximum penalty contemplated is five days' lost pay and that currently under section 59 of the Police Services Act a minor penalty would have to be agreed to by a police officer or a hearing would result. This new provision allows for a mechanism where a more minor penalty can be imposed for a less serious offence, and if the officer is unhappy, the grievance process that exists under a collective agreement could kick in and provide a relief mechanism for that dispute.

On this particular issue, to move to the second page very quickly, you'll notice that when there is a summary resolution of a complaint against a chief or deputy chief, there is the possibility that the dispute mechanism for that could be in the contract that the chief or deputy has with a particular service or police services board. If there is not a provision in the contract, there is an arbitration mechanism contemplated in the act as a fallback mechanism, and that refers to section 50 of the Labour Relations Act, which is a mediation-arbitration model.

**Ms McChesney:** If the chief determines that the misconduct or poor work performance is of a serious nature, the matter proceeds to a hearing under subsection 63(8), and that's at page 25 of your bill.

At the conclusion of the hearing, the chief may impose any of the penalties set out in section 67. Those penalties range from dismissal through an order to resign, through demotion, suspension and down through forfeiture of pay or time off. In addition, the chief has been given power to issue a reprimand or impose remedial measures such as counselling or treatment for an officer.

The officer has a right of appeal to the Ontario Civilian Commission on Police Services from a decision that he or she must resign or from an order that the officer be dismissed. The commission has the discretion to hear appeals from police officers on other matter; for example, from a lesser penalty such as suspension.

The complainant has a right of appeal to the Ontario civilian commission from an acquittal of a police officer, and the commission has the discretion to hear appeals from complainants on other penalties; for example, that suspension was not an appropriate penalty.

A further appeal lies to Divisional Court under section 70, as is currently the case in our Police Services Act.

**Mr Burnside:** As I touched on a bit earlier, the process for reviewing a complaint against a chief or deputy is very similar to the one we've just outlined for a complaint against the conduct of an officer. The difference is that instead of the chief of police quarterbacking the complaint, it will be handled by the police services board; the police services board can decide, on a serious matter, to hold the hearing itself or it can refer the matter to the Ontario Civilian Commission on Police Services to hold the hearing. As I indicated earlier, the summary resolution mechanism is through a mediation-arbitration mechanism set out in the Labour Relations Act.

We've touched somewhat on the powers of the commission on a review. There is a time line on the review. As we indicated, it's a non-hearing review and the



commission should endeavour to do the review within 30 days. That's to keep the process moving along.

The various misconduct provisions are very similar, if not identical, to the provisions that currently exist in the Police Services Act. They're found in section 73, on page 37 of the bill.

There is a provision in section 75 of the bill where the chief of police or the board of the commission can determine what constitutes unsatisfactory work performance.

I would also mention a new concept that exists, as found in subsection 73(2) on page 37 of the bill, that "A police officer shall not be found guilty of misconduct if there is no connection between the conduct and either the occupational requirements for a police officer or the reputation of the police force." That certainly clarifies the situation. I believe there have been a number of cases on that and it certainly clarifies for officers where they stand in relation to off-duty behaviour.

The transitional provisions are set out in section 79 of the bill, on page 39. Matters currently in the system when this bill is proclaimed will be continued in the existing system until January 1, 1998. There is a mechanism that if there is a board of inquiry hearing which has commenced before January 1, 1998, it will be allowed to continue to completion, as will any part V discipline hearing that has commenced. Then, as of January 1, 1998, any other matters outstanding will be folded into the new system and dealt with as if they were new complaints under part V, as established by Bill 105.

**Ms McChesney:** Section 135 is the regulation-making power in the bill. It's set out at page 40. There are regulation-making powers permitting cabinet to make regulations establishing and governing standards concerning adequacy and effectiveness.

**Mr Tilson:** Mr Chairman, before we get into that topic, reference was made earlier to some editorials and articles in the Toronto Sun about changes this bill was making with respect to the special investigations unit. It's my understanding that this bill is not changing that process at all, that with respect to persons who are killed or seriously injured the existing process continues. The Toronto Sun article was totally wrong.

**Mr Burnside:** I would agree with you that section 113 of the Police Services Act has not been amended.

**Mr Tilson:** I'm looking at the impression left by the Toronto Sun article, because that was out there, that indicated there were going to be changes to the special investigations unit.

**Mr Peters:** The sections dealing with the special investigations unit are not amended by this bill.

**Mr Kormos:** That's precisely the point that was being made, that police officers and the citizenry are still in limbo about what the police officer's duty to cooperate really means. The Solicitor General did say he will continue to address the issue of duty to cooperate. As the ADM, can you advise as to how the Solicitor General is going to do that, how he's going to continue to address the issue of duty to cooperate?

1150

**Mr Peters:** Not at this point, no. I'll have a discussion with the minister and see what his views are on the matter.

**Mr Kormos:** Oh, I was sure he would have talked to you before he told us that, but apparently he didn't.

**Ms McChesney:** Carrying on with the regulation-making power under section 135, I'd point out a few sections here for you. Regulations will be made governing selection and appointment of board members, prescribing courses of training for board members and prescribing standards in that connection. A regulation may be prepared for prescribing a code of conduct for board members.

Paragraph 10 of subsection 135(1) permits a regulation prescribing the method for determining amounts owed by municipalities under 5.1 of the act. As I've indicated, the important regulation-making power is in 1.1, which is the regulation "establishing and governing standards concerning...adequacy."

**Mr Klees:** A quick question: I don't see anything here in the regs relating to perhaps providing some guidelines to the police services board when they have the responsibility to hear complaints against a chief. What I'm grappling with here is that we're asking the police services board to make some fairly significant decisions. What guidelines are in place to help the board make a decision as to what to do with a complaint?

**Mr Burnside:** In terms of the decision as to whether the matter is not serious, there will be a regulation, which is 23.2, which will assist in determining what is not serious. That will help the police services board. As far as conducting the hearing is concerned, they will be subject to the Statutory Powers Procedure Act, which sets out a fairly elaborate procedural code that will assist them in how to conduct the hearing itself.

**Ms McChesney:** Outside of the regulation-making power, the minister may issue guidelines or directives to police forces and to board members respecting police matters.

**Mr Klees:** And it's contemplated that that will be done?

**Mr Peters:** I think in a general sense we have a standard governing what should be done by a police service. If there needs to be a directive around how one should approach a hearing over and above the statutory responsibilities, we would do so, but I'm not sure at this point there's a compelling argument to come up with a detailed standard and/or regulation dealing with how one should proceed through a hearing.

**Mr Tilson:** The topic of adequacy you have briefly touched upon. Can you tell me whether the term "adequacy" is going to change as a result of this legislation? For example, in some of the communities I represent which are rural/semi-rural, the topic of 24-hour police servicing is raised and people are complaining that some areas have 24-hour police servicing and others don't. In some of the more urban communities the topic of adequate or inadequate foot patrol is sometimes debated, or whether police officers have or have not adequate equipment, whether it be vehicles or whatever. Who is going to decide what is adequate and inadequate, and who's going to determine whether a particular community is providing an adequate police service?

**Mr Peters:** I will try to respond. Of all the concepts in policing, the most troublesome is the adequacy definition.

Clearly the intent is, hopefully, to come up with an adequacy definition that's based on the core functions now contained in the Police Services Act, and to have that based on: To discharge that function, here's what must occur.

I think it is not intended that we become overly prescriptive, because what was clearly recognized during the process of the police summit and in subsequent discussions with the Ontario Association of Municipalities and our stakeholders is that there had to be a minimum standard of adequacy that should apply province-wide. Over and above that, it was recognized that there would be some local determinants that would increase or add on to what that baseline was. The challenge we're trying to respond to is to develop an operational definition of adequacy that provides to every citizen a minimum standard of adequate police protection, recognizing that that adequacy definition in some areas, in some dimensions, may vary between rural and urban Ontario.

**Mr Tilson:** That's the concern I have. Whether you have a commission determining what is adequate or the Solicitor General's office determining what is adequate, meanwhile the community simply doesn't have the resources to provide the type of policing that may be adequate in one community where they do have those resources, that in another rural community they may simply not have financial resources.

**Mr Peters:** I guess my response on that one would have to be that the expectation would be that all municipalities will be expected to provide the minimum level of adequacy of police services. Clearly, in the context of the act, one of the things that's there, if we go back for a moment and revisit the concept of the joint board, I think it's recognized that municipalities may choose to consolidate and/or opt for a joint police service and spread the costs around among a greater population base. That's the driver behind, for example —

**Mr Tilson:** But in short, who's going to decide adequacy? The commission?

**Mr Peters:** Should there be a dispute, ultimately, as it is now, the Ontario civilian commission would be the final arbitrator on adequacy. The real issue here is the standard or the regulation dealing with adequacy and the ability to accept that as, against the minimum, having some variation between an urban and a rural municipality — below which, though, there is a certain baseline that you would not allow to fall.

**Mr Christopherson:** Apparently the minister has committed the ministry to producing the definitions in a very tight time frame. Can you advise what that tight time frame is?

**Mr Peters:** We would like to have a preliminary discussion document available by the end of March. As we go through the legislative process, we certainly would be hopeful that we would have the final definition of adequacy in the regulation coincident with the proclamation of the act, whenever that may be.

**Mr Christopherson:** It is a regulation you're working towards, not a standard?

**Mr Peters:** Yes, a regulation.

**Mr Kormos:** You can bet your boots that adequacy is probably going to contain some consideration of a

community's ability to pay; otherwise why would you let the community set the budget as compared to the police services board? Policing is going to get stiffed one way or another.

Panel, I was looking at, remarkably, what happens after the summary resolution of a non-serious matter. What I find confusing about that is after a summary resolution it appears that a police officer can go to the OCCPS and give notice to review that stage, but he none the less is forced to go into grievance. He isn't entitled to a hearing if the police chief deems it a non-serious matter, yet he or she is entitled to a hearing if it's streamed over to serious. Am I correct that the police officer is getting shafted there, stiffed a little bit, in terms of not having a hearing right for a non-serious matter?

1200

**Mr Peters:** Perhaps I can respond by outlining the intent and try to draw one distinction that this process reflects. Police officers, as well as being employees, are holders of an office, and this model tries to address the distinction between behaviour that should properly be considered as part of the employer-employee relationship as opposed to behaviour that may, and I use the word "may" advisedly, involve the behaviour associated with the discharge of the duties of the office.

Yet if there are disturbances or issues in that employer-employee relationship — if, for the sake of discussion, someone is habitually late — it's our view, and hence this model, that the behaviour should not attract a formal charge under the Police Services Act but rather, in terms of the employer-employee relationship, it should go through a process of both progressive and corrective discipline. What the chart recognizes is that the behaviour can come from both — it combines both the internal process, if you will, and the complaints process. The behaviour can be complained about externally to the organization or internally.

Yet it is subsequently felt that if there is a disturbance in that employer-employee relationship, what would be the due process an employee would expect to have to make sure the imposition of discipline is not capricious or unfair? Clearly, it was our view that that's best anchored in the labour relations model, and if there's a process for grievance arbitration and dispute arbitration it should go through that model.

We felt that where there are questions around behaviours that may involve a potential abuse of the office — the point was made earlier that we expect a lot and give a lot of authority to police officers. In the exercise of that authority, they enjoy and should continue to enjoy certain protections. There are more formal protections through the formalized hearings process, and that's the distinction we've tried to craft in this model.

No doubt police associations will offer comment on this model as we go through the public hearing process, but it tries to recognize, as I said, those two themes and tries to build into the process the due protections of external arbitration, in the case of non-serious, through the normal grievance process. We believe that's appropriate in labour relations issues. Second, for formal charges you go through the formalized hearings process, the formal discipline process, similar to that which is currently in the



act, with the subsequent appeals to the Ontario civilian commission etc.

**Mr Kormos:** I am confident we are going to be hearing more about that because it's that catch-22 dilemma: On the one hand we're telling a police officer that he or she is a mere worker, such that they have usual Labour Relations Act rights; on the other hand we're telling them they're something more than just regular workers, with guns and powers such that they're subjected to greater scrutiny. The legislator is going to pick and choose when the cop gets to use the one avenue as compared to the other. I think some of them might be a little ticked off or concerned about that.

**The Chair:** That was a rhetorical question?

**Mr Kormos:** No, it's on the record. I thought it was well put in the tight time frame I had.

**The Chair:** Are there any questions from any member of any caucus at this moment?

**Mr Klees:** I'd like to just go back to clause 22(1)(e). Clause 22(1)(e) sets out a number of areas of responsibility that the commission is given, and (e.2) closes off by saying that in the end the commission will have responsibility to make recommendations with respect to policies or services and so on. Could you refer me to somewhere in the act where it talks about the efficacy of the commission? Does it go beyond simply making recommendations? Is there an obligation at some point to actually act on those recommendations?

**Ms McChesney:** I'm sorry; is there an obligation on the commission or on the ministry to act on them?

**Mr Klees:** No. Is there an obligation, whether it relates to the local force or to the local police services board, to act on the recommendations made by the commission?

**Mr Burnside:** These recommendations are more general in nature. I believe they have their genesis in section 101 of the current act, and they're powers the police complaints commission has to make general recommendations. They're not specific to a particular incident or locality. There may be provisions, in a normal section 25 Police Services Act hearing, for the commission to look into the policing in a particular community, but I think the recommendation powers here are fairly broad and they're in addition to the ones that actually exist within the ministry itself.

**Mr Klees:** What you're saying is that with regard to the recommendations referred to here, it relates to the policies or services of a board of a particular force; that there really is no obligation on the part of that force to change their policies as recommended by the commission. If so, why are we going through this process, if we have a commission that is acting in the best interest of the public, it goes through the process of hearing the concerns, the complaints, makes its recommendation, and in the end it gets shelved?

**Mr Peters:** As my colleague pointed out, this recommending authority parallels that which is currently given to the police complaints commission. The commission, in other sections of the act, has quite directive authority in terms of police services to conduct things and to do things. It was felt that the commission should not enjoy the directive authority on recommendations that are coming up in this context; rather, it makes them to the

ministry and the ministry may well reflect that in a standard and/or a guideline to police services. That is reflecting, as I said, the process that is currently followed by the police complaints commission.

**Mr Kormos:** This may be something that you might have to tell us you can get back to us on. The Solicitor General indicated that the ministry was going to generate savings of \$3 million because the government was abolishing the PCC and board of inquiry. The question I want to put to you then is, if the ministry's going to be saving \$3 million, are those savings going to be put back into front-line policing, into the SIU, into the OCCPS? That's the first question, where that \$3 million is going to be reinvested. I think that's what these people call it; they "reinvest" this kind of money.

Second, has there been any assessment of the extra costs that are going to be imposed on police services boards because of the additional duties that chiefs of police have in the review and oversight of alleged police misconduct? Has there been an assessment of that and what that's going to mean to police services boards like where I come from down in Niagara?

**Mr Peters:** In response to the first part of your question, we'll take it under advisement.

In response to the second part, there has been no work done because in effect in the current system the vast majority of the investigation of a complaint is undertaken currently by the local police department. We're not anticipating a significant increase in cost at the local level for the processing of complaints.

**Mr Kormos:** Down in Niagara all hell broke loose, because there's a debate whether you have more deputy chiefs or whether you have more police out there in the community. I'm wondering whether this is going to generate a drive for, let's say, more deputy chiefs; after all, the chief is going to be so busy performing his roles. That's a concern of folks where I come from, that there are fewer cops out on the street and more wearing all the braid and the brass and the gold. That was just a comment, that's all; it wasn't a question.

**The Chair:** Are there any other questions? If not, we will adjourn until 1:30 sharp this afternoon. We have a long afternoon, so I would be obliged if we could start at 1:30. I thank the ministry staff for attending here today.

*The committee recessed from 1210 to 1331.*

## POLICE ASSOCIATION OF ONTARIO

**The Chair:** Good afternoon. We are considering Bill 105. Our first presentation will be the Police Association of Ontario: Mr Moor, president, John Miller, chairman, and Richard Houston, executive manager. Gentlemen, please step up and make yourselves comfortable. For the purpose of Hansard, I'd ask you to identify yourself and then proceed with your presentation as we only have 15 minutes. Thank you, sir.

**Mr John Moor:** Thank you, Mr Chairman. Good afternoon. My name is John Moor. I'm the president of the Police Association of Ontario. I'm also a sergeant with the Windsor Police Service and the administrator of the Windsor Police Association. With me this afternoon is John Miller, chairman of the Police Association of Ontario. John is also the executive officer of the Ontario

Provincial Police Association and a sergeant with the OPP. We also have with us Ted Thornley, who is a director on the Police Association of Ontario and also the president of the Waterloo Regional Police Association, and Rick Houston, the executive manager of the Police Association of Ontario. Rick is formerly a constable with the Windsor Police Service and also a past president of the Windsor Police Association. A number of our colleagues are also in the audience this afternoon and several will be appearing before you over the next several days to make their views known with respect to Bill 105.

Given our time constraints, I intend to introduce our concerns in my presentation and present you with materials which should assist you in learning more about the issues that we feel are necessary to bring forward to your attention.

The Police Association of Ontario is the umbrella group for Ontario's 99 police associations. We represent 18,500 front-line police officers in all of Ontario's municipal police forces and the Ontario Provincial Police. As well, we represent 5,000 front-line police employees in municipal police services. Like you, they have dedicated themselves to providing an essential public service to the people of Ontario. Like you, they expose their public and their personal lives to the demands of public service. They know, as you do, what these demands mean. It is more than most people imagine, and it is certainly more than most people give you credit for.

The people of Ontario have given you certain protections so that you can do your jobs, so that you can, to the best of your ability, represent the people of Ontario in governing this province. Making the tough decisions is not always easy. We know that all too well in our profession. While governments may change and while governments may be streamlined, those protections are essential. We would not and should not take those protections away from you.

The front-line police personnel in this province, the men and women who risk their lives for your safety, understand better than most how important that is. We deal with society's problems on an everyday basis: crime, violence, fear, oppression, perversion, sickness and greed, just to name a few. During the course of their duties, police officers may, and in all likelihood will, be confronted with situations where they may be insulted, threatened, assaulted, spat upon, beaten, bitten, attacked with any variety of weapons that you can imagine, and maybe even shot at. Too often our members get injured and, tragically, sometimes they're killed trying to do their job.

There is only one thing we know for certain as police officers: When the dust settles, somebody somewhere, probably in the boardrooms of the Toronto Star or elsewhere, will have a better idea on how we should have or could have dealt with that particular situation.

We, like you, need as police officers and deserve as individuals protections to make sure we can do our job. We have to know that we can go to work each day without the fear of undue reprisals for trying to do the right thing to the very best of our abilities. However, in its present form, Bill 105 will strip police officers in this province of most of the protections that we need. That

may surprise you. The editorial writers of some newspapers have indicated quite clearly that they think this bill has been a gift to the police. Well, we're here to tell you that this is not so.

Front-line police personnel deal with more than two million calls for service each year in this province. In 1994, we were the subject of 3,737 public complaints. That's less than two tenths of 1% of our total calls for service that result in public complaints, and many of those public complaints are being made by people who already find themselves on the wrong side of the law.

The 1994 annual report for the office of the police complaints commissioner reports that only 190 complaints against police were sustained. That's less than 5% of all complaints; one in 10,000 contacts with members of the public. The commissioner only initiated disciplinary proceedings in 15 cases, and only six of those resulted in findings of misconduct against police officers. In all other cases, all other complaints, the complaints were dealt with successfully by the internal investigation procedures under the scrutiny of the commission. Furthermore, in 1995 the commissioner did not order one single board of inquiry.

The bottom line is that the \$3.8 million that the province spends each year overseeing public complaints could be better spent on police training, additional resources for police services and more police officers in your communities.

Reviewing that, you're looking at two million calls for service by the police, with 3,737 public complaints in 1994 and less, 3,462, in 1995. Only 190 sustained findings that an officer had committed misconduct in 1994, and 148 in 1995. Of the 3,737 complaints reviewed by the commissioner in 1994, only 15 resulted in further action being taken against an officer. In 1995, there were none. The cost to the province: \$3.8 million per year.

A number of people will be parading through these hearings over the next six days that you are sitting who will tell you there are systemic problems within Ontario's police services. They will tell you that our ranks are riddled with racists, and in some instances they will accuse us of crimes, likely including murder. These allegations are simply not borne out by the facts, and the numbers speak for themselves. The fact is that there is a thriving industry of public servants, lawyers, bureaucrats, newspaper reporters, editorial writers and special interest advocates making their living attacking the police.

The case for streamlining police oversight is obvious. It's simply a matter of dollars and common sense. We support a move in this direction. We've always supported it, but we will not support it at the expense of our rights of police officers in this province.

We spent the better part of last summer in consultations with the Ministry of the Solicitor General on how this province could improve policing. Many of the recommendations from those meetings were adopted, but certainly not all of them. We are certainly surprised that matters that were the subject of consensus during those consultation processes have been left out of Bill 105 even though there was consensus by all participants.

More importantly and more to the point, we're alarmed that elements of Bill 105 which are devastating to the



rights of police officers were never even raised in those consultation discussions; they were never even discussed. We have no idea where they've come from.

1340

We want you to know that police officers of this province are becoming increasingly aware of these amendments and many of them are angry about the proposed changes that we're seeing put forward by the government. Following are a few examples of our problems and our concerns with the bill.

Instead of removing the layers of redundant oversight, we have the de facto merger of the police complaints commissioner, board of inquiry and all of their processes with the Ontario Civilian Commission on Police Services.

To offset complaints about the elimination of these two agencies, Bill 105 has been carefully crafted to bolster the rights of complainants, giving them a greater role in the discipline process, while reducing and eliminating the rights of police officers in that same process.

On the other hand, we asked for independent adjudication for discipline. Instead, what we've seen today and in the amendments is that the chiefs of police have been given greater control and greater powers in the system. That's not always fair, especially if the chief is more concerned with public image than fairness for his or her police officers.

In the complaints investigation process, the complainant has the right to be notified at all steps of the investigation and the right to request a review at any stage in the investigation. The officer, on the other hand, is a non-entity in this process and has no such rights under Bill 105. Yet the officer is the only one who stands to lose anything if the system goes offside.

In the consultations, we supported a move to increased informal resolutions. Everybody wins in our minds when the process works properly and matters are resolved to everybody's satisfaction. It costs the system a lot less money when that happens. In Bill 105, however, all of the protections for the officers and the complainants have been removed.

Under the bill, if the informal resolution process fails — and in our view, in all likelihood it will as it stands today — the officer can be disciplined without a hearing, and the only recourse or the only remedy the officer has available to him or her is the arbitration process. We heard this morning that this was supposed to be an improvement for us. We don't see it as an improvement at all. It's a costly measure to go to arbitration every time a penalty is imposed upon our members without a hearing, and I'm sure you'll hear more about that in the presentations that will follow over the next six days.

Bill 105 introduces a new clause for "unsatisfactory work performance." To us, this is just another name for ticket quotas. It's a big stick that's going to be held that will ensure police officers generate set quotas of revenue for municipalities. If they don't generate that revenue, they'll be disciplined under this clause that has been set aside and apart from the code of conduct. The municipality will not care if the police officer takes abuse. They won't have any sympathy for the officers. They'll be looking for the aggressive ticketing of their communities to raise money. It's the front-line police officers who are

going to see first hand the deterioration of the relationship with the public and the community that they serve, not the local politicians who are hungry for cash.

Bill 105 takes away the basic rights of officers to defend their actions in a hearing while giving added rights to the complainant. The biggest and most expensive problem with the boards of inquiry has been delays in the hearing process. This will now be made worse.

Bill 105 has totally gutted an officer's right to appeal. The complainant, even if they are a known and proven criminal, can force an appeal if the officer is found not guilty, yet the officer cannot automatically appeal the decision if the chief of police finds him or her guilty.

In 1995, the commission heard 12 appeals from police officers. Half of those appeals were successful, and in five of those cases the commission threw the charges out completely. One can imagine what would happen to those officers if they had no right of appeal. They would have been left hanging for something that was later thrown out completely, that they were exonerated for. To you, it may seem insignificant that only 12 appeals were heard by the commission. To police officers, it is the only avenue we have available for an impartial, fair review of our case. The fact that we have it makes a difference, and we don't believe you should take that away from us in Bill 105.

Bill 105 gives the control of police services over to municipalities both in controlling the majority of appointments to police services boards and in controlling the finances of the police services themselves. We can live with that as long as there are sufficient safeguards put in place in the bill to hold municipalities accountable to prescribed levels of service. Right now there are none. No prescribed standards have been adopted since this requirement was introduced in 1990. The tradeoff for municipal control must be a stricter compliance process. The commission must have the power to order municipalities to meet acceptable standards, and also must be empowered to impose sanctions when the municipalities refuse. Right now the act, as amended by Bill 105, has no teeth to fulfil this need. It has to be changed.

We are already seeing municipalities cutting their police services and operating with far fewer police officers than they need. Right here in Toronto is one of the worst examples of that. The public knows that public safety is suffering and they are becoming more concerned. In a public opinion poll that we conducted last summer, the public said they did not want to see their police budgets slashed. In fact, they said they were prepared to pay more, much more than even we expected.

The Mississauga News did their own survey to test the public's response and the public confirmed that they wanted more protection from criminals and they were willing to pay for it. But with the control of the purse-strings, many municipalities will now consider public safety the same as any other municipal service. If everything else is to be underfunded, such as garbage collection, libraries and sewage, so too will policing, and there will be a huge price to pay. Criminals are going to benefit by this at the expense of community safety unless minimum, enforceable standards and processes are put into place.

Let me close by saying that the last thing police officers want is another confrontation with the elected legislators in this province. We have attempted time after time, government after government, to work within the system to make constructive changes. Police personnel are becoming very frustrated by the fact that this approach does not seem to be working. Like you, we need to know that we can do our jobs to the very best of our abilities with the necessary safeguards and reasonable protections in place for us. We would not take those protections away from you; please do not take them away from our members.

Bill 105 must be significantly amended where it strips police officers of their rights and safeguards. It must be amended to ensure that acceptable police standards to protect public safety are maintained and enforced. We are prepared to work with the government to address our concerns. We just hope the government will address our concerns. Thank you very much.

**The Chair:** Thank you very much, gentlemen. That's excellent timing. Your time has elapsed and there's no further time for questions at this moment, so I thank you on behalf of the committee.

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#### CANADIAN CIVIL LIBERTIES ASSOCIATION

**The Chair:** Our next presentation is the Canadian Civil Liberties Association: Mr Alan Borovoy, general counsel, and Stephen McCammon, associate counsel. Gentlemen, welcome.

**Mr Alan Borovoy:** Thank you very much. Our remarks today will be focused entirely on the complaint process. That doesn't mean we don't have something to say about other things, it only means that there isn't time to say it, so we'll focus entirely on the complaint process.

There was a statement made a few years ago that best expresses the key issue in the complaint system involved. That statement was made by an RCMP sergeant at the Donald Marshall inquiry in Nova Scotia. When he was asked why the RCMP pulled its punches during its review of the initial murder investigation that had been conducted by the Sydney, Nova Scotia, police force, this RCMP sergeant said: "Police officers are like a fraternity. You owe a certain loyalty to one another."

If that statement is true when one police force is investigating another, how much more true is it likely to be when a police force is investigating itself? As a result of this central fact, we've had in this province over the years many protests from a wide variety of constituencies, from visible minorities to civil libertarians, to unions, to churches. Even the Metro police association joined in the protest against the old police-dominated complaints system. As a result, during the 1970s there were no less than four public inquiries, public task forces into this whole arrangement. In the result we got the current system. A consensus emerged from all of it, and we got the current system in which an external commissioner oversees the handling of civilian complaints against the police, not a perfect system, not, in the view of our organization, even an adequate system, but certainly a much improved system.

Now Bill 105 comes along and threatens to wipe out most of the progress that so many worked so hard to achieve. I just want to run through a short little comparison of the existing act and what Bill 105 would do.

Under the existing act, the external commissioner has investigative powers at least in some circumstances. Under Bill 105 the successor commission will be virtually bereft of investigative powers, so it will be a system of complete police self-investigation.

Under the existing act, the external commissioner at least monitors every complaint investigation. Under Bill 105 the only time the successor commission will even get to see a complaint is in those cases where the parties have the fortitude to file an appeal.

Under the existing act, there is a provision for independent adjudication, for the initial adjudications to be done against regular officers by an independent tribunal, the board of inquiry. Under Bill 105 all of the initial adjudications will be done against regular officers will be done under the aegis of the chiefs of police.

Consider the situation: A person files a complaint. The chief has it investigated, gets back the report, if there is a report — there doesn't have to be — reviews it and decides the complaint is not substantiated. The complainant then can ask for a review of that finding by the external commission. This is under Bill 105. The external commission cannot conduct a hearing, conducts a paper review, no witnesses, no cross-examination, just a look at the paper, and decides whether or not it agrees with the chief's finding. In the event that the external commission does not agree — it has no power to investigate the way it has today, it can't order an independent hearing into it as it can today — it has to refer the matter back either to the very police department that just rendered this adverse decision or to another police department where the matter could be investigated further or a hearing could be held.

What are the chances, do you suppose, that chiefs of police in such situations are going to overrule themselves? What are the chances that even another police force is going to overrule this police chief? What are the chances, in any event, that a complainant under these circumstances is going to believe he's going to get a fair shake from the very police chief who already found that the complaint was unsubstantiated? That's a prerequisite. The complainant has to go through these procedures before he gets access to the external commission and the right to a hearing, and how many complainants are going to put themselves through it? Can we really take this seriously? In our judgement, we cannot. No matter how fair the police handling of a civilian complaint may be, there is no way it can appear fair. No system will command public confidence if it makes the police the umpires of their own ball game.

When we remove, when we deprive the public of this credible instrument for resolving police-civilian conflict, Bill 105 will threaten to exacerbate the very tensions — racial, ethnic, class — that brought about the changes that so many have worked so hard to create. Not surprisingly, within the last couple of weeks we have found a number of people speaking out on this bill just in the last couple of weeks alone: criticism from a Metro Toronto Police Services Board, the Toronto Sun, long-time supporters of this government and the police of Bill 105.



We have this very day in our possession, and we intend to leave it with you, a letter from the International Association for Civilian Oversight of Law Enforcement, asking the Premier of this province to reconsider his position because this bill is threatening to wipe out what the international community has considered the enviable record that Ontario has achieved under the existing arrangements.

This leads us to respectfully request that this committee, whatever other reforms it considers appropriate, ensure that there be no reduction in the capacity for external investigation, review and adjudication of civilian complaints against the police. We ask for this not only because we believe it's in the interests of complainants, and we think it is; not only because it's in the interests of police, and we think it is; not only because it's in the public interest, and we think it is; but also because that is the best way to reflect the deepest sense of fairness in our community. No one, but no one, should be the umpire of his own ball game. All of this is, as always, respectfully submitted.

**Mr Kormos:** Sir, this morning when the bureaucrats were here I was referring specifically to what will become section 71, and in particular subsections (6), (7) and (8). The bureaucrats here, and I'm hope I'm not misquoting them, were trying to create the impression that these were pretty broad-ranging powers on the part of the commission. My reading, and I read subsection (6) out here in front of the committee, was that it isn't, and I know you're familiar with the subsection. Exactly what does it mean in terms of the review capacity of the commission? What can the commission do and what does it have to rely upon to do it?

1400

**Mr Borovoy:** The commission conducts a paper review. Whatever paper has been generated by the investigation, and it doesn't have to, and by the complainant, the commission looks at it. It's not supposed to hold a hearing. Then if the commission disagrees with the chief's finding, it has to refer the matter back to either that police department or another one. It doesn't have the ability to act on its own.

**Mr Carr:** Good to see you again, Alan. With the changes — you seem to be saying you like the old system. As you know, there are many complaints about the old system, not the least of which are the time delays, and we heard from the PAO. We have similar problems in our whole criminal justice system with Askov and delays and so on. You seem to be saying you'd like to keep the present system. If not, what can we do to change this that would make it acceptable?

**Mr Borovoy:** That would depend of course on what problem you're asking to address. We're not necessarily saying the existing system is wonderful; we've had our own criticisms of it. We're saying it is a substantial improvement over Bill 105. All we're saying is that there ought not to be any reduction in the capacity for external involvement, whatever else. If you want to have tougher time limits, I see no objection to that. If you want to consider the merging of some operations, let's say for example the commission and the SIU, there's no particular objection to that. If you even thought of merging the

board of inquiry, with the boards of inquiry under the Human Rights Code, if you're looking to save, you could save on bureaucratic costs that way. When you ask a question like that, what you have to ask is: To solve what problem are you asking for what proposal?

I don't think it would take a tremendous amount of ingenuity to come up with ways of accelerating the process and reducing some duplication. That need not be a problem. For those purposes you don't need to reduce the capacity for external investigation, review and adjudication. That you don't have to do.

**Mr Ramsay:** Mr Borovoy, I very much appreciated your presentation. This morning the minister said that one of the reasons this was going forward was to save \$3 million to the taxpayers of Ontario. Do you think, though, that it maybe is worth \$3 million to ensure that we have strong civilian oversight of police services in Ontario?

**Mr Borovoy:** Most assuredly. That, as budget items go, is a relatively small one, and when you consider what external involvement has contributed to the reduction of tensions in our community by giving the community some halfway credible instrument for resolving civilian-police conflict, I would suggest to you that \$3 million is hardly a staggering price. In any event, as I suggested in my answer to Mr Carr, there are ways of reducing that budget, if not by \$3 million, at least less than it currently is, without compromising on the essential principles that I'm talking about.

**The Chair:** Gentlemen, I thank you very much for your presentation here today. Being distributed is the letter that was referred to from the International Association for Civil Oversight of Law Enforcement. You could read that at your leisure.

**Mr Klees:** On a point of order, Mr Chairman: During briefing this morning I directed a very specific question to staff relating to the investigative authority of the commission. The answer I got assured me that the commission has very broad investigative powers. This witness suggests that this bill considerably constrains that. I think it would be helpful to this committee if we could get something in writing from staff to clarify that issue. I have a feeling this may be a recurring question and I didn't get a satisfactory answer, and if I did, I think members of the public certainly aren't very clear about what this bill does.

**The Chair:** I understand that will be provided to all members of the committee.

#### HALTON REGIONAL POLICE ASSOCIATION

**The Chair:** If we can proceed: the Halton Regional Police Association, Mr Bill Henshaw, president; Paul La Course, administrator.

**Mr Paul La Course:** My name is Paul La Course. I'm the administrator of the Halton Regional Police Association. On my right is Constable Bill Henshaw, who is president of the Halton Regional Police Association, and on my left is John Moor, president of the Police Association of Ontario.

Good afternoon. The Halton Regional Police Association represents approximately 540 members, close to 400 of which are uniform police officers. Our members

provide an important essential service that quite clearly ensures that Halton region is a safe community.

In our opinion Bill 105, as it is now, greatly reduces the protections our members need to allow them to perform their duties to ensure safe communities.

Our members deal with the public in many different forums and under a variety of different circumstances. Some of these circumstances may be of a pleasant nature while others clearly may be of a not-so-pleasant nature. As a result, our members may find themselves the subject of a public complaint. As John Moor spoke on earlier, in Halton region the numbers mirror that of the provincial numbers. Very few of the complaints that are filed within Halton region have any substance or foundation, while a large number of these complaints are in fact made in bad faith or are of a frivolous nature.

An informal resolution is an avenue where a public complaint can be resolved between the police officer and the complainant. In order to achieve such a resolution, both parties must agree to the resolution. I'd like to give you a couple of examples, quickly if I could, of informal resolutions. One could possibly be an apology. Another one could possibly be where the subject police officer acknowledges that while he or she does not feel they committed misconduct or operated in a negative manner, they may agree that they could have handled a situation in a different manner. It doesn't mean they did anything wrong; it just means they could have handled it in a different manner. In a lot of our public complaints we deal with that type of resolution on a regular basis.

We are here before you today to bring to your attention the adverse impact the changes made to the informal resolution process will have on the public, police officers and the complaint process as a whole. What we're going to attempt to do in our short time today is to review some of the proposed changes and compare those changes to what's currently in the act and then at the end of our submissions provide this committee with our recommendations.

One of the major changes in the process under the proposed amendments is that informal resolutions can only occur at the conclusion of the investigation, whereas under the current legislation an informal resolution can occur at any time during the investigation or hearing.

It is our view that such a change will clearly reduce the opportunity for informal resolutions and subsequently will greatly reduce the number of informal resolutions achieved. This will only serve to increase costs and needless disputes.

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Under the proposed amendments informal resolutions would be restricted to non-serious allegations, whereas under the current legislation informal resolutions can be used to resolve serious allegations as well, as long as there is consent from the complainant and the PCC's office. Once again, the proposed amendment will only restrict and reduce the number of informal resolutions achieved between the complainants and police officers. The goal in any dispute should be first and foremost a settlement when a resolution is possible.

Under the proposed amendments, the chief of police can attempt an informal resolution without — I stress

“without” — the consent of the officer, whereas under the current legislation an informal resolution does require the consent of the subject officer. It's our strong view that to allow the chief of police to enter into an informal resolution, or even attempt an informal resolution, without the consent of the subject officer clearly defeats the purpose of informal resolutions and flies in the face of the spirit of the process. Clearly, if a complaint is made against a police officer, any informal resolution must include agreement from whoever the subject of the complaint is — not the chief of police, the subject officer.

Under the proposed amendments, an officer can be unilaterally disciplined if an informal resolution is unsuccessful. As you heard earlier, such discipline can include up to five days', or 40 hours', pay and can be administered by the chief without a hearing. Further, there is no provision for a reprimand or admonishment, and an entry can be made in the police officer's employment record even if the matter is still in dispute. To deal with this imposed discipline, the only avenue an officer would have is the costly and time-consuming grievance and arbitration process to appeal or challenge such discipline. I can assure you here today that if any of our members are disciplined, be it imposed discipline, all will be grieved, every single one.

Currently, in less serious matters, the chief can reprimand an officer without holding a hearing, after providing the officer the details of the allegation and an opportunity to respond. If the officer does not accept the chief's findings and/or reprimand, a discipline hearing under section 60 of the current act would be held. Under the proposed amendments, there is no provision for a reprimand or admonishment.

Under the proposed amendments, there is no protection for “without prejudice” statements that are going to be made or may be made by either the subject officer or the complainant in a good faith attempt to resolve the matter informally. That's in section 68(8) of Bill 105. Under the current legislation, “without prejudice” statements made by an officer or complainant in an attempt to resolve the matter informally cannot be used later in evidence. That's contained in the Police Services Act, section 96(6). Without this protection for both parties, the complainant and the police officer, those involved, and in particular our members, would be fools to participate in this process.

The proposed amendments allow for a reprimand in addition to a penalty, whereas the current legislation allows for a reprimand in addition to or instead of a penalty. We believe that such a change would handcuff a chief of police when administering discipline, when in certain circumstances the reprimand alone would be the appropriate discipline. The chief's ability and authority to administer the proper discipline would be statutorily prohibitive and, more importantly, would be unfair to the police officer involved.

The proposed amendments in Bill 105 introduce additional powers for a chief of police, allowing a chief to impose counselling, treatment, training or other programs or activities, which may include anger management, drug and alcohol counselling as well as others. Under the current legislation, there is no provision for



this type of imposed — let's be clear; it's imposed — treatment. It's not discipline; it's treatment. Participation in bona fide and relevant programs should only be required on a consent basis, in order to stay a penalty which otherwise would be imposed.

Collectively, imagine the impact these changes to the informal resolution process will have if a chief of police is authorized to impose discipline without a hearing where an informal resolution was unsuccessful, and include the fact that the chief may now, under the proposed amendments, attempt to resolve a complaint informally without the consent of an officer. Our members, our officers, will now reluctantly be forced to agree to the chief's proposed informal resolution whether they agree with the contents or not, simply because if they don't, there's a good chance the chief will impose discipline of up to five days. This is certainly not a level playing field in our opinion, and our members won't be playing by these rules.

In Halton region, the police association actively involves itself in the complaint process. In conjunction with the Halton Regional Police Service professional standards bureau and subject officers, we have utilized informal resolution in a very proactive and positive manner. I would be accurate in telling you that approximately 20% to 30% of complaints filed against Halton police officers are successfully resolved informally to the satisfaction of the police officer and the complainant.

To the best of our knowledge, in Halton a board of inquiry has never been initiated as a result of a public complaint, and one of the main factors has been our ability to deal effectively in resolving complaints, both of a non-serious and serious nature, in an informal manner. It would be tragic if this success was jeopardized as a result of the proposed amendments. Currently in many instances the association recommends, and in some cases encourages, our members to resolve a complaint informally. I can quite clearly tell you today that if these amendments are enacted, our positive approach to informal resolutions will cease immediately, and although this clearly would be a step backwards, we would be left with no other alternative.

When it's properly administered and encouraged, informal resolution is a productive and cost-effective method of resolving complaints. We urge you to restore, with the necessary modifications, the informal resolution and informal discipline process in the current legislation, with the following criteria and recommendations: that it may be initiated at any stage in the process; that it not be restricted to minor allegations; that it must require consent of the officer and the complainant — not the chief of police and the complainant, the officer and the complainant; that it restore the discipline process available under section 59 of the current act, as opposed to the more costly arbitration process; that it allow for an officer to be reprimanded instead of or in addition to a penalty and allow, as is current, for a maximum penalty of two days' time off; that it provide full protection for statements made in an attempt to resolve a complaint informally.

The act should prevent an informal resolution from being used against an officer, or an entry made on his or her employment record, where misconduct has not been

established. The act should prevent informal resolutions from being used against police officers for discipline purposes in the future. Informal resolutions are made by both parties in good faith and such resolutions should be solely for the purpose of resolving that particular complaint, nothing further.

We have attempted today to put forth our concerns, as well as offer some suggestions in our presentation for you today. We hope you think about what we have said and, most importantly, we hope you act on what we have said. Don't make change for the sake of making change, and whatever changes are made, be absolutely sure that the process and the people involved are treated fairly and that the process, if not improved, at least does not deteriorate. These proposed amendments do neither.

Thank you for the opportunity to appear before you today. We would be glad to try and answer your questions, if there are any.

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**The Chair:** There's only one minute per caucus remaining.

**Mr Carr:** Thank you very much, Paul, for an excellent presentation. Some of the changes that you talk about obviously deal with the informal resolution. I know we didn't have a whole lot of time for you to get into other areas, but is there any other part of the model that you'd like to see changed, or if we address some of these issues, is that your major concern?

**Mr La Course:** To be fair, one of the areas we were pleased with — I don't know if this is going to answer your question — is that there are no longer third-party complaints. We think that's a step in the right direction. It adds cost to it as well. Again, we find traditionally that usually there's no merit to third-party complaints.

**Mr Carr:** There's so little time, but the other issue, governance, you weren't able to touch on in the time frames. Do you have any concerns in that area? As you know, municipalities will have control. Could you give us your perspective, a Halton perspective, on what that will mean regarding the governance issue?

**Mr Moor:** If I may, and Paul's asked me to respond to it, certainly on the governance issue, the concern, as we pointed out in our last presentation — I think it's shared by all our members across the province — is that we're going to see municipalities lumping police services and the safety of the public in with all other services. When there need to be cuts in funding, with little regard or no regard for safety, they're going to cut our budgets the same as the sewage budget or the library budget or any other particular budget.

We have a difficulty with that because usually when you cut those funds you increase the safety risk to our members and to the public also. That's certainly been the concern that we've had and we've shared with this government since the consultation process came forward. But we're prepared to live with it — we said that and our members have told us that — if the government puts the safeguards in place to ensure that's not going to happen, and the way to do that is through the standards with the regulations on policing services.

**Mr Ramsay:** Thank you very much for your presentation. I'm very impressed with your ideas about the informal resolution and discipline process. In the one



minute that's there, could you give me an example of how that process would work if I made a complaint at the police department?

**Mr La Course:** Certainly. What happens in Halton region, once a complaint is filed, is that investigators from the professional standards bureau come down to speak with the subject officer and any witness officers. The association, we're involved, we meet with them as well. On a regular basis we resolve complaints collectively, informally, a large number. We obviously haven't got to the point of mediation with the complainant, but the investigating officers, myself or another association rep, with the subject officers and witness officers, we get together and if there's a problem with it, then we'll deal with the problem. If there's discipline to be administered, our professional standards people will put that position forward to us. If that's going to be part of the informal resolution, then we negotiate that with the parties. Like I say, it's worked wonderfully.

**Mr Kormos:** One minute is oh so short, so I should move on and get to it. I don't know if you heard this morning when I tried to express with the bureaucrats some of my concerns about how one day you're a worker subject to a grievance hearing, the next day you're something other than a worker subject to a more intensive hearing process that carries with it, as it should, far greater consequences. It's almost schizophrenic, the approach. I'm interested in hearing what more people have to say about your suggestions and the PAO's suggestions on enhancing the informal hearings and getting rid of that wacko sort of grievance intervention as compared to hearings.

The PAO talked about how this bill merges with the amendments to the Provincial Offences Act, which let communities opt in to pick up not just spare change but big bucks. I'm from small-town Ontario in Niagara, not that different from Halton. They're going to have municipal councils set the budgets. Why would the legislation say they can set the budgets if there were really some sort of overriding power? I suspect there's not going to be any real overriding power and you guys are going to get turned into running bake sales, effectively.

*Laughter.*

**Mr Kormos:** Well, one way or another, be it by doing PAO blitzes instead of doing what you want to do. A wink is as good as a nod, and you know what that stuff means. When someone higher up in the chain tells you to do it, you do it. That's what scares me. The PAO talked about quotas and tickets. My God, that surely doesn't go on, does it?

**The Chair:** On that note, we must end. Gentlemen, I thank you very much on behalf of the committee for your very thoughtful report and recommendations.

#### METRO TORONTO CHINESE AND SOUTHEAST ASIAN LEGAL CLINIC

**The Chair:** Our next presentation is from the Metro Toronto Chinese and Southeast Asian Legal Clinic, Ms Avvy Go. Welcome Ms Go.

**Ms Avvy Go:** My name is Avvy Go and I'm a lawyer and clinic director of the Metro Toronto Chinese and Southeast Asian Legal Clinic.

At the outset, let me state that I hope that my presentation today will not be disadvantaged by the fact that I'm the first woman to present before an all-man committee on an issue that concerns a profession that is male-dominated. With that caution aside, let me just begin my presentation.

Our clinic is a member of the Community Coalition Concerned about Civilian Oversight of Police, which came together after the Solicitor General appointed Mr Roderick McLeod to review the province's police oversight system. Like all the other members of the coalition, our clinic believes strongly that good and effective policing services can only come about when police forces are accountable to the public and that all people, regardless of their race, gender, ability, nationality, sexual orientation, economic and social status, are entitled to equal treatment and respect by the police. Over the years, we have represented individuals from the Chinese and Southeast Asian communities who have become victims of police misconduct, whose claims ranged from unfair treatment to illegal search and detention, or even physical assault by officers.

We have taken complainants through the police complaint system and we have seen how the system fails each and every one of the complainants. The system fails those complainants whose complaints are dismissed because of the prohibitive burden of proof on a clear and convincing standard. The system also fails the complainants whose complaints are found to be valid but inevitably the officers get off with a slap on the wrist.

It is clear to us that the complaint system as it now stands is unacceptable and must be changed. But the government's proposal under Bill 105 is not going to improve the police accountability system. If anything, it is going to make the police even less accountable to the public and to the communities they are supposed to serve and protect. So in our minds, Bill 105 is a big mistake. It is a mistake because it ignores the key principles that any civilian oversight system must operate upon, and these are: accessibility, accountability, fairness, thoroughness and impartiality. The provisions in Bill 105 violate some or all of these principles. The following highlights some of the key issues concerning the bill from our standpoint.

To begin with, the government proposes to combine the police complaints commissioner's office — the PCC — the board of inquiry and the Ontario Civilian Commission on Police Services — the OCCPS — into one new agency also called OCCPS. The new agency will be given half of the existing budget to perform a civilian oversight role in relation to the police in Ontario. With fewer resources but a much broader mandate, the new OCCPS will not be able to effectively monitor the policing oversight system and this will seriously reduce the system's accountability. It will also not be able to ensure that the tasks of policing oversight are done thoroughly at the local level. At the same time, the government wants to transfer the jurisdiction over the new OCCPS from the Ministry of the Attorney General to the Ministry of the Solicitor General. Since the latter also has the mandate to oversee police services, its ability to act as a fair and objective civilian oversight body of policing is therefore suspect.



A number of changes have been suggested which affect every stage of the civilian complaint system from the initial stage of filing to the final adjudication of police wrongdoing. For instance, right now a complainant may file a complaint with the local station of any police force or the office of the PCC, but the government wants to make sure that a complainant can only file a complaint with the station of the police force in which the complaint arises or to the new commission, which will have fewer offices across the province. The restriction on where a complaint can be filed makes the system less accountable to people who wish to complain about an officer in their own community.

Further, under the current system, even when the complaint is initially filed with a local police station, the PCC is entitled to receive a copy of the complaint. In Bill 105, there's no requirement that the new commission be served copies of the complaints that are filed with the local police. The commission's role to monitor police complaints is made practically impossible if it is not even notified when a complaint is filed. It has no means of ensuring accountability at all at the local level.

The bill also eliminates third-party complaints and this creates two issues: First, the system will be less accessible for individuals who feel disempowered to file a complaint; and second, it makes the system less accountable because it discourages complainants from coming forward for fear of retaliation.

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One of the most alarming features of Bill 105 is the enhanced power given to the local police chief. Among the new-found powers of the chief is the classification of complaints without the consent of the civilian oversight body. The chief can classify complaints according to their nature and seriousness. If, for instance, the chief believes that the complaint is not serious enough, then he could decide not to refer the complaint to a hearing; rather, the complaint will be resolved through a so-called informal resolution whether the complainant agrees or not.

The increased power to the police chief to classify complaints undermines the principles of fairness and impartiality, hence it renders the system less accountable. The informal resolution that is forced on a complainant is not going to make the system better. As we have heard from police officers, they are not very happy with the information resolution that is forced on the officers as well. The whole process will make it less accountable and more vulnerable to police manipulation.

Under the new system, the police chief also designates who does an investigation, who conducts a hearing and what penalty is to be imposed, if any, on the subject officer. There is no provision for the investigation to be conducted by the new commission, and the commission's power to conduct a hearing is limited only to appeals on record.

Also under the new system, at the end of the investigation the chief will simply notify the complainant how he shall dispose of the complaint, with no requirement to give reasons or to report to the new commission about his final decision.

Public access to the commission is seriously undermined by Bill 105 if the public needs to rely on the chief

to reach the right decision. Also, the accountability and impartiality of the system is compromised when the civilian body cannot review decisions properly and adequately.

While the government has claimed that the proposal will reduce the delays that plague the current civilian oversight system, in reality the time limits that are contained in Bill 105 are more false than real. Any time limit can easily be extended by the police chief when he feels like it, with no reasons needing to be given. Meanwhile, some of the time limits that are found within the current system will be eliminated.

The requirements to file monthly interim reports, for example, to the complainant and the PCC within the time prescribed will be gone. All that is needed is one final written report to the police services board about the complaint. There's no obligation on the chief to send any investigation report to the new commission.

Finally, giving the chief the monopoly over the adjudication of police complaints is the ultimate affront to the civilian policing oversight system.

Given that these are all the problems with Bill 105, what then is the alternative?

In its report entitled *In Search of Police Accountability*, the Community Coalition Concerned about Civilian Oversight of Police presents its vision of a system that will truly fulfil the public's right to demand police accountability. The coalition recommends, among other things, that it is the independent civilian oversight agency, not local police departments, which should be mandated to accept complaints, to investigate police wrongdoing, to determine the proper disposition of complaints, to adjudicate complaints and to rule on the disciplinary actions.

The coalition also recommends that the civilian oversight system take on an active role in educating the communities on issues of police accountability and providing advocacy and support for complainants who are going through the difficult and intimidating experience of challenging police authority.

As a member of the coalition, we support and endorse all the recommendations contained in the coalition report as they relate to the public complaint system.

The coalition also makes recommendations about the mandate and power of the SIU, the special investigations unit. To the Chinese Canadian community in Metro, the issue of the mandate of the SIU and the issue concerning duty to cooperate really hit home when one of its members became the latest victim of police shooting.

Mr Edmond Yu, an unarmed, homeless man with a psychiatric history, was shot just a few weeks ago by an armed officer during a five-minute altercation on a TTC bus. It is an understatement to say that the community was in shock as a result of the shooting. Hundreds of people attended a community forum to discuss the shooting and hundreds more came out to a public rally demanding justice for Edmond.

It has been one month since Mr Yu's death and yet the subject officer has still refused to even speak to the SIU investigators, let alone cooperating with the investigation. If the person who killed Mr Yu were not a police officer, the killer would not have gotten away by simply refusing

to talk to the authority. He would have been charged first; then he could exercise his right to remain silent. Why should it be any different when the killer of Mr Yu happens to be a police officer? Why should the police officers have it both ways?

The recommendations made by the coalition on duty to cooperate are more than reasonable. We all know that holding police officers accountable will not bring back Mr Edmond Yu, Dudley George, Faraz Suleman or all the other civilians who have died senselessly at the hands of police. What we do get by making officers cooperate is the truth.

It is therefore the position of the Metro Toronto Chinese and Southeast Asian Legal Clinic that in searching for a civilian oversight policing system that is truly accessible, fair, accountable and impartial, the government of Ontario must scrap Bill 105 and thereby replace it with a new set of amendments that incorporate all the recommendations contained in the report by the community coalition. Then and only then can Ontarians be assured that the police forces in this province are there to serve and protect the public, that each and every police officer will enforce the law in a fair and equal manner and that no one is above the law.

We have included a copy of the recommendations in our submission. In fact, the whole report has been made available to the Solicitor General, and we did receive a response from the Solicitor General. However, the response was totally inadequate. We have followed up with a letter to him stating our opposition because he did not address adequately any of our recommendations and concerns.

**The Chair:** Thank you very much. We only have about 30 seconds for each caucus. Mr Ramsay.

**Mr Ramsay:** Thank you for your presentation. Just looking at your report, this does answer one of the questions I had and that is that you would support a type of informal resolution process if the complainant was agreeable. I think if we were to get something like that, it would bring more transparency to the process, especially in dealing with maybe less serious complaints.

**Ms Go:** Yes. In my experience, a lot of times the complainant is not asking for blood. They have gone through some horrible experience; they want to get it over with. All they needed was a simple apology from an officer, for instance. But right now what's happening is that the officers, out of fear of having a bad record or for whatever reasons, won't even apologize.

**The Chair:** Thank you, Ms Go. If we could move on, Mr Kormos.

**Mr Kormos:** I'm going to speak very quickly because this guy is tough. I understand that the Premier sent the coalition a letter saying that Runciman would welcome comments on his McLeod report and recommendations prior to introducing changes to the Police Services Act; that you were one of the recipients, as a member of the coalition, of that letter but that the only meeting with you was after the act had already been drafted, printed and produced for first reading on January 14. Is that what happened?

**Ms Go:** Yes, that's what happened. We asked for a meeting before he would introduce any changes to the

Police Services Act, and we only got a meeting a couple of weeks after it had been tabled.

**The Chair:** Thank you, Mr Kormos. If we could move on, Mr Carr.

**Mr Carr:** Thank you very much for a fine presentation. Just following up on Mr Ramsay's comment, it's your feeling that the informal process can be used effectively, and you'd like to see some changes in that area.

**Ms Go:** Any process whatsoever, especially when you are talking about resolution, has to be agreed upon by all the parties. Even the police officers have to agree on it.

**Mr Carr:** On that point with the officers —

**Ms Go:** Right now Bill 105 says the chief will just impose on everybody. It's not acceptable from the complainant's point of view or the officer's point of view.

**The Chair:** Thank you very much, Ms Go, for your excellent presentation.

1440

#### CITY OF NORTH YORK COMMITTEE ON COMMUNITY, RACE AND ETHNIC RELATIONS

**The Chair:** Our next presentation is by the city of North York's committee on community, race and ethnic relations, Mr Samuel Wilkes. This morning you were given — it looks like this — the presentation. If you'd look in your morning batch of material, you will find it. Mr Wilkes, welcome. You have 15 minutes, so we'd better proceed posthaste.

**Mr Samuel Wilkes:** Please permit me to commence by mentioning that I am here as a representative of the city of North York's committee on community, race and ethnic relations, and it has carefully reviewed this submission and has endorsed it.

On behalf of that committee, I attended the meeting of January 30 in the OISE auditorium and the one of February 3 in Minister Runciman's offices. I was also present at the public meeting before the police services board on February 25 and in fact had the privilege of making a presentation to the board, but on my own behalf. The comments made by each of the five panel members on January 30 have been very carefully considered, the report presented to the Solicitor General on February 3 by the community coalition has been read, as has the minister's response of February 13, and the summarized explanation of Bill 105 as presented to the public meeting of the police services board on February 25 has also been carefully studied.

It is recognized that the time has come to make changes to the present Police Services Act, but we are at the same time concerned with three specific details. For the sake of simplicity and clarity, we use as a point of reference the explanation of Bill 105 given to the police services board on February 25 by Mr Albert Cohen, deputy metropolitan solicitor, a copy of which is attached hereto.

On page 3, item 5, section (a), "Overview," the bill proposes to merge the discipline and public complaints systems. We believe these should be separate. Internal police discipline should be handled in a manner similar to that of industry and commerce, namely, that an employee's superiors are in a better position to under-



stand the shortcomings of employees under their guidance. However, we definitely do not agree that civilian complaints should be dealt with solely by police. The two concepts must be kept apart. We do not agree that there is any similarity between what may be construed as internal poor job conduct and conduct that might give rise to a civilian complaint.

We do not agree that third-party complaints should not be acceptable, page 4, (g), and we explain this as follows: A substantial portion of Metropolitan Toronto's population consists of new Canadians, and it is a tragic fact that a large percentage of them come from communities in which a uniform means, at best, dictatorship or bribery, but all too often a severe beating or, worse still, a violent death. Consequently, it is very difficult for them to understand that uniforms in Canada can mean such things as, "To serve and protect."

The report entitled *The Extent of Hate Activity and Racism in Metropolitan Toronto*, published last June by Dr Karen R. Mock and commissioned by the Access and Equity Centre of the municipality of Metropolitan Toronto is precisely on point. The third paragraph on page 29, which is within that part of the report that deals with individual calls and interviews, commences: "Very few of the 1-800 callers had reported the incident to anyone else. However, most of the others interviewed had reported the incident, initially to a member of their own community. For example, individuals from the Somali community, Chinese community or the Jewish community will call someone from one of their own community associations first, and often need encouragement to call the police."

It is therefore absolutely essential that we do whatever is necessary to help them realize how different things are in this country, because with such realization comes acceptance and with acceptance comes cooperation. For a police force to be an efficient and economical body, it must have full cooperation from the citizens of the community in which it serves. We submit that while anonymous complaints should not be acceptable because they would open doors to frivolity or, worse yet, vindictive actions, we believe that a nervous complainant should be able to make his or her presentation through a responsible third party such as a minister of a church or a doctor etc.

Persons involved in assessing civilian complaints must be seen by the public as being fair, objective and, in some sense, representative of both sides of any complaint. It would be undemocratic if, as most proponents for changes to Bill 105 appear to be suggesting, the complaints investigation panel was to be totally civilian, because that would remove rights of representation on the panel by police officers on behalf of the officer who is the subject of the complaint. It would be equally undemocratic if the reviewer were to be either a chief of police, page 4, (d), or an all-police body, because that takes us back to the ingrained fear of uniforms and authoritative persons which we have already mentioned, and it could also lead to accusations of lack of consideration of the complainant's rights.

Our recommendation is that very serious consideration be given to a complaints investigation panel consisting of

four parts with a total of seven persons. The first part should consist of two representatives from the appropriate police force. The second part should consist of two civilian representatives from the community at large, at least one of whom could be a lawyer well versed in matters of this nature. The fifth person should be from the judiciary and he or she should be the panel chair. All these five persons must be well versed not only in the wording of the act but also in the meaning of the wording, and all these persons would be permanent members of the panel.

With regard to the remaining two members of the panel, our recommendation is that they shall be made up of responsible and learned citizens chosen by the complainant and in whom, obviously, the complainant would have complete trust. Those so chosen shall be permitted to attend only those panel meetings that pertain to that specific complainant's action, with full voting rights at such meetings, and their service on the panel would cease immediately upon completion of that specific action.

In this way both the police officer and the complainant would be totally represented in all considerations and the deliberations of the panel would always be within the meaning of the act. Neither side would be able to make accusations that their rights had not been given due consideration in their case once a decision had been handed down, although we do agree with that section of the bill regarding the right to appeal.

We also wish to recommend for consideration that interpreters always be available for the complainant's benefit, as is the case in all of our courts, and that the chair shall always be ready to educate the complainant's panel representatives in the scope of their duties, so that at no time shall they be ignorant of their responsibilities or rights while serving on the panel.

Thank God we live in a democratic society, and proof of that is the very existence of this meeting and the previous ones of which I have already made mention and had the privilege of attending. Please, let us not be Orwellian and create degrees of democratic representation for different sections of this, our very precious community. Besides, George Orwell wrote his satires on individual liberty and authoritarianism in the late 1940s. Let us at least hope that in the 50 years since then we have progressed in both areas for the better.

I would now like to add one other point if I may, please. As I'm sure you are all very much aware, the committee, which consists of some 14 members, is very involved in many aspects of the problems of our society, so each one of us becomes responsible for different areas of the problems of our society; mine is that concerning systemic racism within the police force and the relationship of the police to the community and the community to the police.

I have studied all that I can lay my hands on of Bill 105. The committee as a body has, to my knowledge, only had the opportunity to study this, my presentation, which, as I have already mentioned, they have endorsed. As far as Bill 105 is concerned, I recognize that there is a need for change. We live in a democratic society, and bills, once they become acts of law, are not, I realize, written in stone. Government has the ability to change

them as society's needs change, and the Supreme Court has the right to force changes when necessary. I am speaking on my own behalf, therefore, when I say to you that I think on the whole the present Bill 105, other than these three suggestions, is excellent. It is a progressive step in the right direction.

1450

**The Chair:** Thank you very much, sir. We have one minute per caucus.

**Mr Kormos:** I understand the nature of the panel that you want to structure, with various representatives, two persons chosen by police. The other position is clearly that you want to permit third-party complaints. What I don't understand, though, is third-party complaints; to wit, an agent of the aggrieved person or an independent person who may observe something taking place but who was not a party to it either by representing that aggrieved person or by being directly involved.

**Mr Wilkes:** Not a person who was a witness, for that person might be called by the panel. Permit me to create an example for you: supposing someone goes to a doctor and that person has got a badly bruised chest and perhaps some cracked or broken ribs. The doctor examines him and says, "How did you get this?" and they're a little hesitant to state. Finally the doctor gets from them the fact that, according to them, a policeman puts his elbow into their chest. But the person, because of language problems or because of ingrained fear as part of their heritage, does not want to go, and certainly would not want to go, to a police chief. Nor would I, and I don't consider myself to be an uneducated person. Then I think that doctor would have the right to go to the investigative panel and say, "Look, I've got a patient here and I think you people ought to hear about this." That's what I mean and what we mean by third-party representation.

**Mr Tilson:** On the question of who should investigate complaints, there are other professions, the most obvious ones that I can think of being the medical profession and the legal profession, where if there are complaints against a doctor, you complain to a panel of doctors. The same with the legal profession: You complain to a discipline committee or other types of committees of the law society and they investigate those complaints. That seems to work fairly satisfactorily. You don't think that this same type of practice of police investigating members of their own forces is satisfactory. Are you suggesting that police are not concerned about the operation of their own forces? I suspect that most police do not want bad cops out there.

**Mr Wilkes:** I agree with you, sir, but I disagree inasmuch as, if a person has to go to a police chief to make a complaint, then in the eyes of the public it is not seen to be without prejudice. That is my concern. It must be seen to be without prejudice as well as being without prejudice.

**The Chair:** Thank you, Mr Wilkes. We have to move on.

**Mr Bruce Crozier (Essex South):** Our time is so limited. I'm interested in your complaints investigation panel and I'd like to see that looked into a little further. But my question is, you referred to it being undemocratic if police representatives were not on a complaints panel

or complaints board. I'm very supportive of the police; I meet with them regularly in my own community, a habit I got into when I was mayor of the community. But if they work for us, the public, and if they are there to protect us, what's undemocratic if a panel is made up of a significantly greater number of civilians, or perhaps no police at all? What's undemocratic about that?

**Mr Wilkes:** It's the opposite extreme of the pendulum, if you want the police to police themselves or if you want civilians to police the police. I don't agree with either concept. They're both extremes, like Communism and Fascism. I believe that a panel should have police representatives on it so that they have the right to represent the officer who's being charged.

**The Chair:** Thank you very much for your presentation.

**Mr Wilkes:** Thank you, sir. I appreciate your time.

#### CHINESE CANADIAN NATIONAL COUNCIL, TORONTO CHAPTER

**The Chair:** Our next presenter is the Chinese Canadian National Council, Toronto chapter, Mr Keith Wong. Welcome, Mr Wong.

**Mr Keith Wong:** Good afternoon, committee members. I'm the executive director of the Chinese Canadian National Council, Toronto chapter. Before I begin my presentation, I would like to give you a brief introduction of our organization. Since its establishment in 1980, CCNC, Toronto chapter, has been the local chapter of the national organization with 30 chapters across the nation. Our scope of activities includes political, civil, social, economic and cultural aspects that affect the living and contributions of Chinese Canadians in the Toronto area.

Today we remain an active force for the advocacy of Chinese Canadian people and their political rights. We are one of the few groups in the Chinese Canadian community frequently consulted by all levels of government and public bodies on a wide range of issues. We also make deputations at many public hearings on legislative issues, police services boards and councils of municipal governments. We also provide information and support to individual community members who have experienced discrimination or harassment in the workplace and in their access to services.

In 1989 the case involving Kay Poon, a Chinese Canadian nurse who was beaten by two Metro police officers, brought the issue of policing to the attention of our community. At that time, our organization was approached by Ms Poon to provide support and advocacy on her behalf in her complaint against the police officers. Since then, policing issues have become one of our major areas of advocacy work. Besides supporting many community members in their complaints against police officers, we have conducted two studies on attitudes towards police in the Chinese Canadian communities in the previous years. We have also conducted numerous forums and workshops on policing issues between the police and the Asian Canadian communities, including Japanese, Korean, and Middle Eastern Canadian community members as well.

Our organization is also a member of the coalition concerned about civilian oversight of the police. We



believe that for the police oversight system to be effective, the following principles must be followed: accessibility, accountability, fairness, thoroughness and impartiality. The present system, as it now stands, fails in many of those aspects as a truly independent civilian oversight system. However, the new system proposed under Bill 105 would be far worse for civilians who are affected by the potential police wrongdoings.

I will highlight some of the problems of Bill 105 first, and I will share with you some real-life experiences that CCNC happened to have seen in the past.

The proposed bill will decentralize the system of police accountability to the local level with sweeping power given to the local police chiefs to deal with every stage of the complaint, from the filing of a complaint to the final adjudication of police wrongdoing. The power of the provincial oversight body will be reduced to functions that primarily will be reviewing files. To us this is unacceptable. Specifically, we have the key following concerns on the new bill.

Under the current system, a complainant may file a complaint with the local station of any police force or the office of the PCC. Even when the complaint is initially filed with the police station, the PCC is entitled to receive a copy of the complaint. Under the new bill, it requires that the complainant can only file complaints at the station of the police force to which the complaint relates, or the new commission, and there's no requirement that the new commission be served copies of the complaint and progress of the investigation filed with the local police force.

The restriction on where a complaint can be filed makes the system even less accessible to people who wish to complain about an officer in their own local community. The commission's role to monitor police complaints will be made practically impossible if it's not even notified if a complaint is filed. There is no means of ensuring accountability at the local level at all.

Under Bill 105, all investigation will also be done by the local chief and his or her designate. If the civilian body does not have the power to investigate in the first instance and they do not have the resources to investigate, it seriously undermines the accountability issues and whether the investigation is fair or is being fairly dealt with.

Under the current system, the classification of a complaint is done at the direction of PCC. With Bill 105, it will be the police chief's responsibility. The chief will not even need the consent of the new commission. Such an increase of power to the police chief to classify complaints undermines the principle of fairness and impartiality.

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Bill 105 requires that the complaint be made by someone who is directly affected by the police policy, services or conduct in question. The exclusion of third-party complaints creates two issues. First, the system will be much less accessible for individuals who feel disempowered to file a complaint; second, it will discourage complaints from even coming forward. Under Bill 105, any time the police chief thinks the police misconduct, even when proven, is not serious enough, he can resolve

the matter informally without holding a hearing. The chief has no obligation to give reasons for his decision. The chief does not need the complainant's consent in order to resolve the matters informally. When informal resolution is being forced upon the complainant, it will only make the system more vulnerable to police manipulation.

Also, Bill 105 gives power to the chief to decide whether or not to hold a hearing and the power to designate the prosecutor at the hearing. There is no provision for the new commission to order or hold a hearing at the first instance. The only type of hearing that the new commission can hold is a hearing on appeal by the complainant. Given the chief's monopoly as an adjudicator of the police complaints, it is the ultimate affront to the civilian oversight system.

I now share two cases of real-life experience that our council happened to be aware of and supported at some stages. To protect their identities, I call them Ms X and Mrs Y.

The incident happened more than two years ago. Ms X, a Chinese Canadian woman in her late 40s, was involved in a tenant-landlord dispute. According to Ms X, she believed she had a valid lease and the bank had some kind of mixup with the lease documents. On that day, the agent and the landlord arrived with the police officers. They forced the tenants out of the house.

Ms X was not fluent in English. She tried to explain the situation in Mandarin and broken English phrases she could manage. However, the police refused to listen. She was handcuffed and taken out by force. In the process, she had bruises all over her arms and legs. Only when a second team of police officers arrived at the scene and realized how badly she was injured, they brought her back to the house and pacified her. During the whole incident, no interpretation was provided. When she sought medical treatment that evening, it was the family doctor who told her to make a complaint against the police officers involved. Realizing she was not fluent in English, her doctor told her: "Go to the police station adjacent to Chinatown. There must be someone who speaks Chinese in the station."

When she went to that station and she told the police officers what she wanted was to complain against the police officers, in her broken English, the officer on duty told her that nobody speaks Chinese here. He said to go home and make the complaint in English writing.

A few days later, she managed to find a friend to write out her experience and brought the complaint to the division. According to Ms X, nobody from the police, including the complaint investigator, ever talked to her or even handed her a pamphlet about the police complaints process. She had no idea what possible outcome she would expect from this complaint she filed. After nearly two years of investigation, the final report only said the police officers used necessary force and handcuffed her in order to protect herself and others from injuries. To add salt on her injury, the report says the police officers spent half an hour to advise her to leave the premise because of possible trespassing charges, but the report does not even mention that interpretation was not even provided to her. Ms X is now totally disillusioned by the



police and about the complaints system. She only felt that she was being revictimized by filing a complaint against the police officers.

Another case involved Mrs Y. According to Mrs Y, a man who identified himself as a police officer entered their apartment in the afternoon. In fact, both her and her husband recognized the man as the police officer from a search of the condominium building the week before, and they let the man in. Mrs Y alleged that once they let the man inside the condo, the man forced her husband into a room and locked him up, and sexually assaulted her in the other room. Only when her continued screaming and shouting and her husband's pounding on the wall got too loud did the man leave. Immediately afterwards, they called the police to come. Mrs Y said that the police initially took the case very seriously, but once they mentioned the suspected man was a police officer whom they could recognize from the local division, the attitude changed. They were brought to the police station. They took down their story and gave him a yellow paper and told him to go home. Nothing happened.

The couple knows some simple English but are not fluent. Little did they know their reporting of a crime became a complaint against an unidentified police officer. Nothing happened until Mr Y went to the police station again to urge them to find the police officer. He even volunteered a strategy that may help identify the suspect to the police, including looking at the pictures of the officers at the police station. However, all he was given was the year books that showed tiny little pictures, the police group graduation photos of the officers taken many, many years ago. They were not helpful at all for the identification purpose. During the process, the couple found more hurdles than help from the local division. Only when we looked at the documentation when they approached us did the couple realize they had filed a complaint against the police.

We were also shocked that they never received any progress report on the investigation of the police complaints commission or the police. When we contacted the PCC, we were informed the PCC never received any record about the case nor any progress report on the investigation ever since the complaint was filed.

A few months later, the couple saw the alleged police officer in uniform in the public, and they marked down the badge number. This time, they did not even dare to tell the investigator directly, but asked a lawyer to draw up a letter for them and pass the information in writing to the investigator. I do not know what is in the minds of the couple now, but I can tell you, this couple is more scared about police reprisal than that their complaint will even get a chance of being fairly dealt with.

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These cases are real experiences. I do not think that people in this country deserve that kind of treatment from any of our public institutions. The sad fact is that it happened and our government institution is doing nothing to address them. Similar situations will be even worse in the future. Both cases illustrate significant problems of access in filing complaints of existing systems. The lack of and unwillingness to provide language assistance is one major concern. Will Bill 105 address those concerns?

No. It will be worse. It will even reinstitutionalize those barriers by requiring complaints to be in writing, in English. If you are not fluent in written English, you can forget having your case heard.

Another serious concern with many complainants, including Ms X and Mrs Y, is police investigating themselves. Many of them filed complaints because they thought Canada is a fair and democratic country. They believed the complaints would be heard and investigated by an independent body in a fair manner. Only when they went through the system did they realize the system could be so inherently biased for the police officers.

**The Vice-Chair:** Excuse me, Mr Wong. I am sorry. We are on a very tight schedule, and your 15 minutes has expired.

**Mr Wong:** I can actually wrap up in the last paragraph. Okay?

**The Vice-Chair:** Ten seconds.

**Mr Wong:** With the amendments in Bill 105, the scepticism will only be heightened. I also wanted to address the Edmond Yu case, and that's about the chief's remark, but I'm going to skip that.

In conclusion, I would like to urge committee members to recommend the withdrawal of Bill 105. If you listen to the concerns of the community, you should make sure the system will be more accountable. If the government wants to change the Police Services Act for the people in Ontario, please look at the recommendations of the coalition that we presented. There are also the recommendations I would like to bring forward to this committee. A copy is actually enclosed for your reference. Thank you.

**The Vice-Chair:** Thank you very much, Mr Wong, for your presentation.

#### METROPOLITAN TORONTO POLICE SERVICES BOARD

**The Vice-Chair:** Our next presenter will be Lois Griffin from the Metropolitan Toronto Police Services Board. Good afternoon.

**Ms Lois Griffin:** Thank you very much for giving us this opportunity. My name is Lois Griffin. I'm the vice-chair of the Metropolitan Toronto Police Services Board and a member of Metropolitan Toronto council.

**Ms Joanne Campbell:** My name is Joanne Campbell. I'm the executive director of the Metropolitan Toronto Police Services Board.

**Ms Griffin:** We've circulated copies of our presentation to the committee. As you can see, there are a number of recommendations. I'm just going to highlight some of the more critical ones, as we see it, before us today. I should point out that we did, as a board, hold a public hearing on Bill 105 and as a result of that we've incorporated some of the concerns we heard expressed at that public meeting.

I'll go through these in the order they appear in our presentation. The first one I want to draw your attention to is on page 1 of our brief and relates to the size of police services boards. Under Bill 105 it provides that the board of a municipality other than a district, regional or metropolitan municipality with a population over 25,000 shall have a five-person police services board.



As a result of the legislation currently before the province, Bill 103, the City of Toronto Act, the new Metropolitan Toronto will be classed as a local government, hence we would have the numbers on our police services board reduced from seven to five. We would certainly like to continue to have a seven-person board both from a workload point of view, and it does allow us right now to have three members of council serve on that, which has been useful in having council have a better understanding of the police service. So we would ask for that amendment in the legislation.

You might want to consider making it so that any city, say over 300,000, would have the option of having a larger board if they so chose.

The second area I wanted to draw your attention to is on page 4 of our submission. It deals with the issue of providing time-limited employment contracts for chiefs and deputies. We would ask that you amend section 31 of the act to make it permissible for such time-limited employment contracts to be entered into between boards and the chiefs or deputies. In fact, many police services boards, including ours, now enter into contracts with our senior staff, but there has been some question, because the act doesn't explicitly allow it, as to whether it is, strictly speaking, allowed or what happens at the end of that time period.

We feel that because the recruitment, appointment and monitoring of performance of these senior officers are some of the responsibilities of police services boards, it's important that we be allowed to enter into these time-limited contracts. It certainly provides an important element in the oversight and accountability relationship between the boards and the chiefs. We would ask for that amendment so that there's explicit permission in the legislation for that.

The third issue I draw your attention to is on page 6 and it deals with the issue of loss of qualifications of uniformed members of the police service. Sometimes it happens that uniformed members may find themselves in the position of having lost some of their qualifications as police officers. For example, they may have been charged with impaired or careless driving and will lose their driver's licence; in some cases they may have lost, for some time, the permission to carry firearms. This then makes it difficult for them to carry out their normal function, and we are asking that the legislation would allow the chiefs and the boards, if they can't accommodate the officer, to be given the authority to suspend or demote the officer for the period during which his or her qualification as a police officer has been lost and until such time as the officer can requalify.

We would also suggest that you may want to have the legislation permit that a member can appeal the chief's decision when he would invoke this particular portion of the act.

The next area I want to draw your attention to is the section with regard to the complaint process, and it's dealt with on page 10 in our submission: the issue of suspension without pay. We believe again that there may be circumstances where the administration of police services and public confidence in that administration would be enhanced if the legislation were amended to

allow chiefs to suspend police officers without pay when they are subject to allegations of serious misconduct, and I stress the word "serious."

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Currently the chief can suspend civilians without pay under these circumstances, and some of the other proposed amendments would allow for the suspension of both board members and chiefs without pay. We think it would also be appropriate that under certain circumstances the chief could also suspend without pay police officers if, as I say, they are the subject of serious misconduct allegations. We have, as part of our policy right now that results in suspensions generally, outlined which of those allegations are of such severity that they would merit suspension.

Right now it has to be a suspension with pay. We are suggesting the alternative that there could also be suspension without pay. The consequence of not having that currently allowed is that if there is a serious allegation that is proven, it may mean that an officer has been off for perhaps, depending on the severity, a year on pay. There is no ability to recoup that at any time if the officer has indeed been found guilty. It doesn't add to public confidence in the entire process.

On page 12 we have some comments with regard to the SIU. I wanted to simply make one reference, one of the things we are asking you for. That is that section 113 of the act, dealing with the duty of police officers to cooperate with the SIU, be amended to clarify the scope and extent of the duty to cooperate. It's right now the subject of some unclarity with regard to the duty to cooperate versus charter rights of an individual. One of our solicitors for the police services board is going to actually be submitting some more comments to you before the end of the week on that, but it's something that we think really needs some additional clarification.

Page 12 of our submission deals with the issue of excluded personnel. Police service employees who are employed in confidential capacities and matters related to labour relations, financial budgeting and planning as it relates to contracts and labour relations and employees who are directly accountable to the police services board should be clearly excluded from membership in bargaining groups. In the rest of the public sector these groups are traditionally excluded from union membership, and we really don't see any justification for treating the police service any differently, so we strongly recommend that section 114 of the act be amended to include a new definition of "excluded personnel" and, as I say, include some of the exceptions that I've mentioned.

One last area that I wanted to draw your attention to is on the last page of our submission and deals with the issue of court security. This has been a long-standing concern of the Metro Toronto Police Services Board and, I suspect, other police services boards as well. Because the province is responsible for the administration of justice and the administration of the courts, we are asking that legislation be changed so that the province would also be responsible for the provision of courtroom security within provincial courtrooms. This would include the escorting of prisoners to and from courts. Right now in Metropolitan Toronto it represents over \$20 million of



our budget to deal with it. It is only a partially controllable expense. It depends on the province. When new courts are opened we are expected to police them and it gives us, as I say, uncontrollable expenditures that we do not feel are properly the purview of the police services board. We ask that the legislation be changed to no longer make that one of our responsibilities.

That concludes my remarks. As I say, I've just touched on the highlights in our report. It doesn't mean that the rest of our recommendations aren't important, so I hope you would take the opportunity to look at them all.

**The Vice-Chair:** Thank you very much, Ms Griffin, for your presentation. We do not have time for any questions from the members. On behalf of the committee, thank you very much.

#### YORK REGIONAL POLICE ASSOCIATION

**The Vice-Chair:** The next presenter will be the York Regional Police Association: Paul Bailey, Fred Stojanovic and Steven Horner. If you could all individually identify yourselves for the purposes of Hansard, you'll have 15 minutes and you can begin any time.

**Mr Paul Bailey:** Thank you, Mr Chairman. On my right is Steven Horner. Steven is a police officer with York Regional Police. He's also on the board of directors for the York Regional Police Association. On my immediate left is staff sergeant Fred Stojanovic. Fred is the vice-president of the association. He's also a staff sergeant with York Regional Police and has 28 years' experience. Of course, you've already been introduced to John Moor, the president of the PAO. My name is Paul Bailey and I'm president of the York Regional Police Association. I'm also a sergeant with York Regional Police and have been for the past 24 years employed by the department.

Our association represents approximately 700 uniformed officers, from cadet up to and including the rank of staff sergeant, and 135 civilians. I'm appearing on behalf of our members to advise this standing committee that we are deeply disturbed by Bill 105, the Police Services Amendment Act. It is our opinion that many parts of Bill 105 are seriously flawed and actually deny police officers the same rights and privileges under law that are afforded any other citizen of this province, protection we need to do our jobs.

Although we have a variety of concerns over the amendments that are before you today, I would like to spend the little time I have to bring to your attention the concerns we have with the special investigations unit and the duty to cooperate.

As a brief reminder of the background, the Ministry of the Solicitor General and Correctional Services in May 1996 introduced a document entitled Review of Police Services in Ontario: A Framework for Discussion. This document was developed by the government to generate discussion between the variety of police stakeholders so that a policing summit could be held in June 1996 to find better and more efficient ways to deliver police services.

The policing summit was presented a brief from the Police Association of Ontario, which we are members of, entitled Policing in Ontario: Building Safer Communities, which very clearly put forth the views shared by police

associations from across the province on how to provide efficient and effective policing while maintaining the necessary protections for police officers.

As I indicated in my opening remarks, I do not intend to review the entire position of the York Regional Police Association or the Police Association of Ontario, but I do intend to bring to your attention two specific areas that both our association and the Police Association of Ontario focused on at the summit, and at most other meetings we've had over the years, concerning our relationship with the special investigations unit.

The first concern we feel the amendments should address is a very serious need for clarification to the act, that an officer is not required to forgo his or her rights under the Canadian Charter of Rights and Freedoms when he or she becomes the subject of an investigation by the special investigations unit. This was unanimously recommended by all stakeholders to the minister in the police summit process last year.

It's no secret to anyone that since its inception the SIU and the policing community have had a strained relationship when dealing with issues that may compromise the rights of our officers. Time and time again the SIU has refused to clear officers, based on their decision to remain silent on the advice of legal counsel. This happens even after an overwhelming amount of evidence has shown the special investigations unit that the officer was justified in his actions. Let me provide you with two examples in York region alone, where one officer provided a statement on the advice of counsel and where another officer refused to cooperate on the advice of his lawyer.

In the first example, the officer was involved in the accidental shooting of a drug suspect in the course of a high-risk takedown. The SIU was immediately called in and began its investigation. In the course of its investigation the SIU requested that the officer submit to an interview. The Toronto Star quoted SIU spokesperson Sarah Persaud, "With the officer's co-operation, the investigation could be wrapped up in a matter of days." Several days later the officer, believing that if he submitted to an interview it would allow the SIU to conduct a full and timely investigation, attended the offices of the SIU, where he provided a full and detailed account of his actions. Boy, was he mistaken.

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The promised "couple of days" turned into more than a year and a half, with little or no information forthcoming from the SIU. The officer's lawyer was ignored in his written requests for the status of the investigation and the officer went through a living nightmare. Fortunately, the officer was finally cleared of any wrongdoing.

In another incident during the same time frame, an officer received a radio call to attend the scene of a "shots heard" call. The officer and his partners arrived at the scene and were confronted by a drunken, violent, armed man with a .45-calibre handgun. The man pointed the firearm at the officer and refused to drop the weapon. The officer shot the suspect twice. The suspect was treated for non-life-threatening injuries and charged criminally with firearm offences. The officer, on advice of counsel, refused to speak with the SIU, but provided



a full written report of the shooting. Further, the officer also agreed to answer SIU questions if they were put in writing. The SIU never responded.

Six months later in Newmarket Provincial Court, the man pled guilty to two counts of pointing a firearm and one count of possessing a weapon while prohibited. The convicted man then said in open court that the officer took the only course of action possible and that he did not fault the officer. The man was sentenced to 15 months in jail. Unbelievably, the officer was still not cleared by the SIU. The man served the required time in jail and was released. Still the SIU failed to clear the officer. Finally, some 15 months after the shooting, the officer was cleared.

This scenario begs the question, how could any self-respecting agency allow a human being to suffer needlessly over such a prolonged period of time and maintain any credibility?

These two cases are put forth to demonstrate the difficulties we have with the SIU and to show that some officers have cooperated and decided not to exercise their right to remain silent and it didn't matter one iota.

The Charter of Rights and Freedoms was created and passed in law to protect all citizens, including police officers. It boggles the mind that our government continues to refuse to recognize through legislation that police officers are entitled to the same rights as all citizens. Think about it. By continuing to ignore this plea from police, you are telling them that they have fewer rights than monsters like Clifford Olson or Paul Bernardo. What a disgraceful commentary on our society that would be.

The second concern our association has with the SIU was also addressed at the police summit. All the parties at the summit process unanimously agreed that the mandate for the unit should be more clearly defined to focus resources on the serious occurrences involving life-threatening injuries or death. Too much of the unit's time and resources are spent tracking relatively minor occurrences.

In York region, one of our officers was responding to an intrusion alarm at a convenience store. While en route to this incident, the officer had his roof lights activated. As the officer entered the intersection, a member of the public, in a high state of intoxication, suddenly crossed the road and was struck by the cruiser. He suffered non-life-threatening injuries. The SIU was called in according to protocol and an investigation commenced.

The SIU waited to the last day before the six-month statute of limitations under the Highway Traffic Act was to expire and charged the officer with careless driving. The charge went to court, but a Newmarket judge dismissed the charge, saying there was no evidence to continue. The officer didn't even have to enter a defence in that case. The officer was cleared by the SIU 10 months after the incident.

Again, what is wrong with this picture? Further, why is the SIU wasting valuable time investigating minor traffic accidents that could have been handled by local police agencies? It is our view that the SIU should have clearly defined mandates to investigate only serious occurrences involving life-threatening injuries or death. Too much time is spent on relatively minor incidents.

In closing, you have already heard from several of my colleagues on a variety of subjects. We wish to emphasize our extreme concern that the legislation will further diminish the rights of police officers. Further, we urge you to adopt the recommendations of the police summit. Further, the SIU mandate should clarify that police officers are not to forgo their rights.

In my brief that you have before you, I have provided documentary evidence on the cases I have just mentioned to you and it also displays some of the letters written by lawyers on behalf of those officers.

I also have to add a remark that if government wants to take rights away from police officers in this province, who's next? Is it going to be doctors, lawyers or perhaps even politicians?

I ask you to very carefully consider our information, and I truly thank you for the opportunity to appear here today.

**Mr Klees:** Thank you very much for your presentation. I have to say to you that much of what you've said seems to make a great deal of sense. I don't think this particular piece of legislation deals with the SIU specifically, but as a member of this committee, I can certainly undertake to you that this particular subject matter will be brought forward and we will have some discussions on this. It does make some sense. I thank you for your presentation.

**Mr Ramsay:** I too want to thank you very much for your presentation. I find it very valuable and we'll hope to incorporate some of your ideas and amendments.

**Mr Kormos:** Earlier today, when the Solicitor General was here, we raised — you know full well there's a whole lot of people who want to talk about the duty to cooperate, not from your perspective but on creating a duty to cooperate. We expressed our concern to the Solicitor General that this wasn't an issue during the course of these hearings. It's simply going to linger there until it's addressed one way or the other and it's going to have to be debated. As you well know, there are arguments to be made; you've made one, and we're going to hear other arguments this afternoon that are not in accordance with yours.

But the Solicitor General did say he will continue to address the issue of duty to cooperate. I was heartened by that, but when I asked the assistant deputy minister what the minister meant by that, he said basically, "I don't know because I haven't talked to the minister about that yet." I'm in limbo too. We'll be prodding the Solicitor General. At some point it's going to have to be addressed.

**Mr Bailey:** Mr Kormos, if you go back to some of the comments that were made this morning, and I sat here listening to them, one of the things we're requesting in the SIU mandate is a more focused approach to their investigations. You have to understand that any time a person is placed at the head of a group of people, like the director of the SIU, he brings with him a wealth of experience and knowledge but he also brings with him his own particular point of view.

What we've been faced with in the last seven years since the SIU became an entity is that we've had more directors in charge of the SIU than the Maple Leafs have had coaches of their hockey club, and I can say that the Maple Leafs have a better record.

**Mr Kormos:** Or than this province has had premiers in the last seven years.

**The Vice-Chair:** Thank you very much on behalf of the committee for your presentation.

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TOWN OF HUNTSVILLE;  
TOWNSHIPS OF GEORGIAN BAY,  
LAKE OF BAYS AND MUSKOKA LAKES

**The Vice-Chair:** The next presenter is for the town of Huntsville and township of Muskoka Lakes, Chris Williams. I see here that you're also representing the townships of Georgian Bay and Lake of Bays. You'll have 15 minutes for your presentation.

**Mr Chris Williams:** Mr Chairman, members of the committee, I'll try to be brief. You should have now a written submission that looks like this. If you turn to the first page, you'll see the names and addresses of the parties and witnesses making submission. My name appears at the top. I'm going to be speaking on behalf of the town of Huntsville and the townships of Georgian Bay, Lake of Bays and Muskoka Lakes.

We also have in attendance to answer questions — I don't think they want to speak at this time — Mr Len Clarke, who's the deputy mayor of the town of Huntsville; Mr Mike Kennedy, who's the mayor of the township of Georgian Bay. And we've had a change in cast: As we go down the page, instead of Mr Thomas Pinkcard, the mayor of Lake of Bays, we have Janet Peake, who's a councillor; and Mr Russ Harvey, who's the deputy mayor of the township of Muskoka Lakes.

The submission, at the second tab, contains a letter that I forwarded to your clerk, Mr Arnott, on March 13, and that basically outlines what our submission is going to be. I'm not sure if the members of committee have all had a chance to read this over, but the position of the municipalities I represent is essentially to support the amendments proposed by the Police Services Amendment Act, except for one key provision which relates to the administration of the provision of police services, and I'll come to that in a minute.

First of all, to explain my clients: The municipalities I'm representing here are all local municipalities within the district municipality of Muskoka. They comprise four of the six area municipalities within Muskoka district and have a combined population somewhat in excess of 25,000; that's over 50% of the population of Muskoka.

The district of Muskoka, while it's called a district, is, by virtue of the Muskoka act and the Regional Municipalities Act, deemed for all intents and purposes to be a regional municipality. So administratively for most purposes it functions like the region of York or the regions of Niagara, Ottawa-Carleton and so forth, even though it's called a district municipality.

There's an important difference, though. In accordance with part VIII of the District Municipality of Muskoka Act, all police functions are performed by the OPP at no cost to the local municipalities and no cost to the district municipality. All other upper-tier municipalities in a regional government system, with the exception of the restructured county of Oxford, which is a bit of an anomaly, currently provide their own police services. For

example, you've got the Metro Police, York Regional Police, Peel Regional Police and so forth. That's not the case in Muskoka, and that's unique in that the OPP provide the services to all the municipalities in Muskoka. It's not through a contract and it's not paid for — which I guess has been a nice arrangement so far, although obviously that's ending with this act, but it's not through a contract with the upper tiers. It's simply being provided in the same way it's provided in townships, municipalities and counties.

The Police Services Amendment Act is generally a step in the right direction. Aside from providing for proper financial responsibility for the provision of police services, it provides greater flexibility in providing police services. Municipalities have a greater degree of control in the direction that is provided to their inhabitants and there are mechanisms put in place to ensure accountability and public input.

Our clients, Mr Chairman and members of the committee, endorse the thrust and intent of the act, in particular as it was articulated by the honourable Solicitor General and Minister of Correctional Services upon its introduction, where he stated: "Local government should make decisions about local services, while the provincial government should ensure province-wide standards of policing and community safety. The amended act" — that is, the Police Services Act — "will cut red tape, foster community involvement and allow more local control over police service delivery." I put an emphasis on "local" and "local municipality."

The Police Services Amendment Act permits many municipalities greater flexibility to determine the best way in which police services are going to be provided to their inhabitants. That includes, as you are likely aware, establishing or maintaining their own police force, contracting with other municipalities for the provision of police services, setting up joint police forces with other municipalities, and contracting with the Ontario Provincial Police. If they do nothing, the Ontario Provincial Police are required to provide the police services and they bill the municipality.

However, the Police Services Amendment Act precludes local municipalities within all district, regional or metropolitan municipalities, with the exception of the restructured county of Oxford, from enjoying this greater flexibility and autonomy. The sole authority for contracting for police services, providing police services, setting up a police force and so forth is restricted to the upper tier. That may make sense in all the other regional government systems where there are currently regional police forces or, in the case of Toronto, a Metro police force; you may not want to dismantle or leave the door open to dismantling an existing system. But in Muskoka, as I've said, it's the only regional government type of municipality where police services are provided, and exclusively provided, by the OPP and not through contract with the upper tier. In that sense they are the same as county municipalities or northern district municipalities.

The town of Huntsville and the townships of Georgian Bay, Lake of Bays and Muskoka wish to have the flexibility to directly contract with the OPP, as provided for



in section 5 of the Police Services Amendment Act, and to establish a police services board. It's important for them to be able to establish their own police services board. That could be done either individually or jointly. The OPP currently provide police services to all municipalities within the district of Muskoka. That seems to be operating very well. There is currently a large detachment in the town of Huntsville, one in Bracebridge and one in Midland, which serves the township of Georgian Bay.

Notwithstanding the fact that my clients comprise two thirds of the municipality within Muskoka and have over half of the population and households, they're precluded from assuming police service functions through the service migration provisions which came about by the omnibus bill last year, which was to provide greater flexibility and local autonomy, because police services are not included within the list of services that can migrate. This act effects a fairly great hardship on my clients and precludes a lot of local discretion and decision-making and flexibility, which exists in Muskoka in kind of an anomalous situation.

I'd point out that the restructured county of Oxford is also deemed to be a regional municipality by the Regional Municipalities Act and by its own enabling legislation, but it, which is provided some of its police services by the OPP, and others, the local municipalities that have their own forces, likewise enjoys the flexibility accorded all other lower-tier or local municipalities in the act. If you want to look at a more analogous situation, Muskoka is much more similar to the situation in Oxford than it is to the situation in Metro Toronto or York region.

On behalf of my clients, therefore, we request that the Police Services Amendment Act be amended by adding a subsection to the end of section 5 to permit area municipalities within the district municipality of Muskoka to contract with the OPP. I have included a proposed draft at tab number 6. It's fairly short and I'll just read it to you:

"(6) Notwithstanding subsection 4(4)" — and 4(4) is the part of the act which precludes local municipalities and regional government systems from having any role in police services — "an area municipality within a district, regional or metropolitan municipality that was provided police services by the OPP on January 14, 1997, may enter into an agreement under section 10, alone or jointly" — and section 10 is a provision in the new act which allows for contracting with the OPP upon the establishment of a police services board for the provision of police services — "with one or more councils" — so they can do it jointly or individually — "to have police services provided by the OPP," which is the situation today.

Rationally, you could take the situation in Muskoka much further and really establish the same system that has been set up for all county governments, for the restructured county of Oxford and for northern district municipalities by letting all municipalities have that ability to set up their own police forces, contract for police services, set up joint forces or contract with the OPP.

We are only asking for a small piece of that pie. We're simply saying that my clients would like the ability to

contract with the OPP. The amendment I've proposed would in no way limit the regional municipality of Muskoka from contracting with the OPP, even setting up its own police force for Bracebridge and Gravenhurst or, if one of my clients had a change of heart, to provide police services for them. It provides the maximum level of flexibility without diminishing a role which the district municipality may want to take. Frankly, I see no reason why the district of Muskoka should not have the same treatment as county municipalities or northern district municipalities.

#### 1550

I'd point out that Muskoka is entirely, aside from the fact that the OPP currently provides all the services, surrounded by county and district municipalities on all sides to which the benefit of the proposed changes to the Police Services Act amendment will apply. These are Simcoe, Victoria county, Haliburton district and Parry Sound district.

It appears inconsistent with the stated goals and objectives of the Police Services Amendment Act and inappropriate to exclude local municipalities within Muskoka from the flexibility provided to their immediate neighbours, and there's no reason not to do that. As I say, the reason that I can see for putting this restriction on regional government and municipalities is if there's already a regional police force that's functioning and there may be some concern over undermining that existing municipal police force. In this case there is no district municipality of Muskoka police force; the OPP simply provides the service, as they do to most county townships.

It is our submission that the amendment which we've requested promotes and advances the expressed thrust and intent of the act by allowing municipalities within the district greater flexibility in providing police services while providing for public accountability and cost savings.

Aside from these concerns, my clients support the amendments contemplated by the Police Services Amendment Act. We would be pleased and the representatives, my clients personally who are here, would be pleased to answer any questions which you have concerning this. Again, we would request that the amendment which we've asked for be made, and I would point out that the municipalities comprise two thirds of the municipalities within the district of Muskoka and they hold over half the population. Thank you. Are there any questions?

**The Vice-Chair:** Thank you, Mr. Williams. Your timing is impeccable. You've used the full 15 minutes, so there will not be time for questions. On behalf of the committee, thank you for your presentation.

#### ONTARIO ASSOCIATION OF POLICE SERVICES BOARDS

**The Vice-Chair:** The next presenter is the Ontario Association of Police Services Boards. Good afternoon.

**Ms Hazel Lloyst:** My name is Hazel Lloyst. I am a member of the Belleville Police Services Board and also president of the Ontario Association of Police Services Boards. I am joined today by Sandi Humphrey, executive



director of the association, and by Malcolm Winter, our labour relations adviser.

OAPSB is a voluntary membership association of police services boards throughout Ontario. Our mission of excellence in civilian police governance is pursued through the provision of advice, guidelines, education, training, advocacy, research and information services to boards throughout Ontario. Our brief has been circulated, and while it contains a number of issues, we will choose to limit our remarks to six areas of concern, which will hopefully allow a few moments for questions.

**Composition of police services boards:** Our association has historically maintained that the current composition of local police services boards, whereby a majority of board members are appointed by the province of Ontario, serves the public interest by precluding local political interference in police operational issues. The Association of Municipalities of Ontario has long argued for the abolition of local police services boards in order to enable local councillors, elected by and accountable to local taxpayers, to govern police services and determine policing priorities and needs at the local level.

The proposal in Bill 105 which will allow municipalities the ability to appoint one of the citizen members of the board is clearly a compromise. We are prepared to work with municipalities under this new governance model and seek to move beyond the difficult and strained relationship that exists between some boards and councils. We anticipate an opportunity to have input into the development of regulations under the act and seek to ensure that the council appointment process, criteria and appointment term mirror that utilized by the province of Ontario.

**Transportation of prisoners and court security:** During the summit and post-summit consultation process, our association reinforced our long-held view that transportation of prisoners and security in the courts are not policing functions. Bill 105 fails to respond to the views of municipalities and local boards which put forward the concept that duties that do not require the power of arrest should, in the interests of efficiency and cost-effectiveness, be assigned to other government agencies.

**Vacancies on police services boards:** Lapses in appointment terms of members of police services boards have plagued us for years. In some instances boards have been unable to undertake business because of the lack of a quorum. This is a circumstance that cannot be tolerated, given the magnitude of responsibilities that fall to local boards. We propose the following amendment to Section 27(10):

"If the term of appointment of a member appointed by the Lieutenant Governor in Council expires, such member will continue to serve until a new appointment or re-appointment is made by the Lieutenant Governor in Council."

**Police funding inequities:** Since 1990 our association has advanced the concept of fairness and equity in the financing of policing services throughout Ontario. We applaud the government of Ontario for its commitment to have all communities and municipalities in Ontario finance their policing through the municipal tax base. Addressing this issue will place all municipalities on an

even playing field and will go a long way towards ensuring accountability for policing service at the local level.

While we are pleased that the government plans on making all municipalities financially responsible for their policing, our delight has been tempered by a proposed amendment to section 7 of the act providing that "two or more boards may not agree that the police force of one board will provide the other board or boards with all the police services that a municipality is required to provide." This will preclude smaller municipalities from exploring the option of contracting for their local police service from an existing police service municipally. Their only contracting option will be with the Ontario Provincial Police. While many police services boards are extremely pleased with the service provided in their municipalities by way of a contract with the OPP, we suggest the option of contracting with a municipal police service will provide for an alternative policing method and a competitive marketplace that best serves Ontario's taxpayers.

**Ms Sandi Humphrey:** There is a provision to deal with severance pay in the act in the event that a police service disbands. Section 40 provides for arbitration if matters relating to severance have not been agreed to by the local police services board and members of the local police service. There is a separate provision in the Employment Standards Act that allows for severance pay. That provision has traditionally not applied to police service transfers because they have rights under section 40 and because uniformed officers are almost always offered employment with the successor police service, OPP, and do not lose continuity of employment.

In the case of the Orillia police service move to OPP policing, a section 40 hearing has been held relating to severance but a decision has not yet been rendered. At the same time, the Orillia Police Association has filed a complaint with the employment standards branch claiming severance under the Employment Standards Act. Should the Orillia Police Association's claim for severance under the Employment Standards Act succeed, 33 police officers, each of whom is now employed with the Ontario Provincial Police, will share a severance award estimated at over half a million dollars funded entirely by the taxpayers of the city of Orillia.

It is preposterous, in our view, that the taxpayers of Orillia may be facing this massive expenditure. It is our position that the intent of section 40 of the Police Services Act was to preclude application of the Employment Standards Act in this case. Obviously the Orillia Police Association does not share this viewpoint. We urge the government to clarify this issue by way of an amendment or regulation making it clear that section 40 of the Police Services Act is intended to supersede any other severance rights under the Employment Standards Act.

Another issue we wish to speak to was just previously addressed by the Metropolitan Toronto Police Services Board relating to exclusions from association membership. This again has been a long-standing concern of police services boards and relates to the need for board staff, labour relations and human resource employees who are unencumbered and uncompromised by membership in a collective bargaining unit. Such personnel are tradi-



tionally excluded from trade union representation in the rest of society, and we concur with Metro's view that there's no rationale for different treatment in the policing sector.

**1600**

The final issue of concern relates to the allocation of resources and the assignment of police personnel. Police services boards are of the view that bargaining by associations and police services boards should not be permitted in respect of the allocation of police resources or assignment of police personnel. Interest arbitrators have on occasion conceded to police association demands to prescribe the number of police personnel attending to police duties at certain times. These matters are clearly best determined by police management and the police services board, who are ultimately responsible for determining what and how resources can be used efficiently and effectively to best meet community expectations. Management requires the flexibility to deploy police resources in a cost-effective manner.

**Ms Lloyst:** In conclusion, we have advanced a number of proposals for amendment, most of which seek to provide local police services boards and police managers with the flexibility to govern and manage police services in an efficient and cost-effective manner. The public demand for high-quality and affordable policing service places police services boards in a difficult position. We want to provide quality policing and yet we have very little flexibility under the Police Services Act to do so in a cost-effective and efficient manner. We urge your consideration of our proposals to help us do just that.

**The Vice-Chair:** Thank you very much for your presentation. We have two minutes per caucus, starting with the Liberal caucus.

**Mr Crozier:** Good afternoon. On page 2 of your submission, under "Composition of Police Services Boards," although I think you go on to say you're willing to work in this area, you made the comment that the current system serves the public interest by precluding local political interference in police operational issues. How do you see that as differing from provincial political interference?

**Ms Lloyst:** At the present time the composition is made up of a majority of provincial appointees. The proposal to the act is that there would now be a majority, if you like, municipal in that there would be two councilors.

**Mr Crozier:** I understand, but what's the political difference? Right now they're provincial political appointees. Presumably they are, and most of the ones I see in my area are, current government supporters, so they're political appointments. Having been on a police services board and on a municipal council and mayor of a town, I'd much rather they be a local political appointment than the current system of being a provincial political appointment. That's the difference I'm trying to get at.

**Ms Lloyst:** I can tell you that I wasn't a political appointment, but I may be the exception.

**Ms Humphrey:** I have served as executive director of the association of police services boards now for 10 years. I think the act under which we've worked for

many years whereby there has been a majority of appointees appointed by the province has served to advance the application of provincial standards. I think that was the intent and I think the application of standards at a provincial level and the province appointing a majority and the majority of those appointees being told, "Your job is to apply this act at the local level," advanced the application of standards.

However, it also advanced the war between provincial appointees and council appointees, and the different points of view as to who should serve as a majority has been going on for a lifetime and has preoccupied a number of local jurisdictions, and the provincial jurisdiction as well.

I just see telling one body, "You must by law do this," and having another body funded, riddled with — I mean, the end result being the war doesn't surprise us. I guess that's why there may be some people here surprised to see that we're — we've got to try something else because we don't want the war to continue. We want to try a different methodology where municipalities and boards can attempt to apply standards and yet govern in a different manner, closer to the municipality. Time will tell whether this works.

**Mr Crozier:** That can be resolved, certainly, by having the province pay for it all, since it has the standard.

**Ms Humphrey:** I have thrown that out on occasion. It didn't go very far.

**Mr Kormos:** I'm trying to get a handle on the motive for the new model in terms of police services boards now that there's effectively a domination by municipal members on the boards. In conjunction with that, they've transferred responsibility for setting police board budgets on to the shoulders of municipal council. Mind you, the bill still says and the minister would say there's still a right of the police services board to seek something from the OCCPS. I'm suspicious about it. I'm wondering what's going on here. Have you got any handle on what's going on, why they would create effectively municipally dominated police services boards but then give municipal governments the power to set budgets? Something fishy is going on here. Do you have any feel for it?

**Ms Lloyst:** AMO has advanced the statement that those who pay have the say, that they are paying the bills so they should have the say. Even though at the summit and post-summit process a majority of the stakeholders supported the status quo, that did not happen and we are attempting to work with this new model that has been presented to us.

**Mr Kormos:** I know municipal politicians too, and yes, I was one as well, and I know the kind of pressures they're under to generate things like zero property tax increases, notwithstanding that it's going to mean fewer cops on the street, longer response time, the whole nine yards. What's going to happen?

**Ms Humphrey:** I guess we are sitting here somewhat comforted by two things: (1) that the Ontario Civilian Commission on Police Services is still there; (2) that if a board gets a budget back that municipal council has taken a pencil to, a budget comes back to the board and the board is sitting there saying, "This no longer gives us the

ability to adhere to the standards of the province that we are, in accord with legislation, bound to comply with, nor does it give us the ability to satisfy the requirement for adequacy that we've been told we're going to soon have input in developing and that finally we're going to have a definition for adequacy," the mechanism for appeal is still there. Those are the pieces that we've been told will come, and if they do, hopefully this will settle things down.

**Mr Kormos:** It's been a long time since I've felt warm and comfortable and fuzzy with this government, honest.

**Mr Tilson:** We didn't feel too comfortable with your government.

**Mr Kormos:** We didn't shut down police stations.

**Mr Carr:** Thank you for your presentation. It's good to see you again, Sandi. I think your comments about the summit were correct in terms of the debates that went on there. There were some lively debates, not only in the formal part but also informally, and they're not unlike what I recollect we had in caucus when this discussion came up as well.

But my question relates to the issue of oversight. If you've been here today you've heard a great deal of concern about oversight, both from the association and from some of the other groups that have come forward. What would your recommendation be on the oversight? You basically said go back and take a look at it, which isn't really too helpful because we need to move forward. If you were going to set it up, how would you do it? How would your association say we should do it?

**Ms Humphrey:** With respect to oversight, we took a view at the summit that the public has significant demands for oversight and that the public, under the current model, has a lot of questions and currently under this proposed one seems to have more. When we looked at what resulted from the summit, the summary of summit proceedings, it became evident that all stakeholders at the summit agreed that any system of police oversight must be credible, clear, fair, transparent, independent, direct, objective and open. Our very real sense at this point in time is that what is being proposed does not satisfy that. We want a system that will, and we are more than prepared to continue discussions and work towards that. We are civilian overseers ourselves. We are trustees of the public interest in policing at the local level, and we take that seriously. We are uncomfortable with the proposal that is in front of us.

**Mr Carr:** Let me put you on the spot a bit here, Sandi.

**The Chair:** I'm sorry, Mr Carr, we've run out of time. Thank you very much for your presentation.

1610

#### PARKDALE COMMUNITY LEGAL SERVICES

**The Chair:** Our next presenter is Parkdale Community Legal Services, Tanya Lena and Patricia Allard.

**Mr Kormos:** Chair, while these folks are settling in, can I pose a point to you for a response from the ministry? That is with respect to this issue of the role of the OCCPS under the new structure of municipal councils setting budgets, because I think somebody is being set up

here. Can we receive some written confirmation from the government that the OCCPS will continue to have an unfettered discretion to determine the standard of policing and not one that's modified by, for instance, the ability of the municipality to pay, which is a standard that this government has been importing, let's face it, in Bill 84 for arbitration of firefighters' salaries and minimum staffing? I think it's important for us to know that.

**The Chair:** Mr Carr, did you understand the question?

**Mr Carr:** Yes. As was indicated, as a suggestion from Mr Klees, we will get that clarification for you, for all of us.

**The Chair:** We can then proceed. Welcome. You have 15 minutes. I'd ask you to proceed.

**Ms Patricia Allard:** Good afternoon. My name is Patricia Allard. I'm an articling student. I'm joined by Tanya Lena, who is a community legal worker. We are here on behalf of Parkdale Community Legal Services.

Parkdale Community Legal Services was established in 1971 to provide advocacy and legal representation to people with low incomes living in the Parkdale area. The Parkdale community consists predominantly of people who are marginalized within the dominant culture. We work with people of colour, immigrants, refugees, homeless people, working-class people, the unemployed and psychiatric survivors. These communities perceive that they are heavily policed yet have limited access to police services and police protection.

I'd like to start with a quote: "In my opinion, the young generation of whites, blacks, browns, whatever else there is, you're living at a time of extremism, a time of revolution, a time when there has got to be a change. People in power have misused it and now there has to be a change and a better world to be built and the only way it's going to be built is with extreme methods. I for one will join with anyone, I don't care what colour you are, as long as you want to change this miserable condition that exists on this earth." This was an excerpt from a speech given by Malcolm X at the Oxford Union Society in 1964.

Change to end miserable conditions that exist with regard to policing in Ontario is not only needed, it is necessary. I must at the very least applaud the present government for acknowledging that change to the Police Services Act is desperately needed. However, I must end my applause there.

Bill 105 gives Ontarians the appearance of change for the better. If you take a good look at the bill, you'll quickly see that the changes that the present government is proposing are changes for the worse, changes that lack thought, changes that ignore the needs and concerns of all Ontarians who are directly affected by these changes; changes that ignore some of the most basic principles of administrative law; changes that enable police officers to continue to harass, degrade and murder Ontarians without being held accountable for their actions; changes that increase and ensure difficulty of access to the police complaints system in Ontario. Why are such changes present in a bill created in a country that prides itself on being so democratic and pro-human rights?

The answer is simple: The democratic process was never used in creating Bill 105. The most intensely



policed communities in Ontario were never properly and genuinely consulted in the review of the Police Services Act. Bill 105 is the product of government officials in consultation with the Ontario Association of Chiefs of Police. Ontarians like me and those who will appear before you this month and next month never had any input. Anyone who allows Bill 105 to be passed and become law in Ontario will be shamed for not upholding the genuine and proper democratic process.

**Ms Tanya Lena:** The first specific issue that we wish to address today is the duty to cooperate with the SIU. Since 1978, 24 Ontarians have been shot by police officers. The vast majority of these shootings have been fatal. The majority of the victims have been people of colour. In no case has a police officer been convicted of an offence with respect to the shooting of a civilian, and in most cases no charges have been laid.

The special investigations unit was created by amendments to the Police Services Act in 1990 to provide accountability in precisely such circumstances of serious injuries and deaths that may have resulted from criminal offences committed by police officers. However, until police officers, whether they are suspects or not, are compelled to cooperate with the SIU, the SIU will not fulfil its intended function. We therefore recommend that subsection 113(9) of the Police Services Act be amended to require that any officer involved in an investigation falling within the jurisdiction of the SIU be required to turn any requested information and evidence over to the SIU no later than 24 hours after the request.

Secondly, the government should take the position that subsection 113(9) is constitutionally valid, and officers who refuse to give information or provide evidence should be charged with obstructing justice unless and until a court of law has determined that subsection 113(9) is unconstitutional. Criminal charges should also be laid where there is evidence to support the charge.

Thirdly, a subject officer who does not cooperate should be suspended or dismissed from the police service as a result of failure to meet conditions of employment.

In addition, the special investigations unit must be adequately resourced to hire and train more investigators and staff. These employees should be primarily civilians and should reflect Ontario's racial diversity. Police officers should be required to report all incidents of police use of force to the SIU within 15 minutes of the incident, and the SIU should be equipped to respond immediately. The public should have access to the SIU through a 24-hour phone line to be used to report instances of police use of force.

**Ms Allard:** We're now going to turn to the public complaints system. The rules of procedural fairness in administrative law, as we all know, dictate that for an investigation and a decision to be of any value they must be done by a neutral, impartial investigator and decision-maker. It can be deducted from the report of the Commission on Systemic Racism in the Ontario Criminal Justice System and the Uniform Treatment, a community inquiry into policing of disadvantaged people, that the police force is pervaded with biases towards people of colour, homeless people, sex trade workers, immigrants, youth, and gay, lesbian and bisexual people. The ability

of the police force to investigate police complaints has been and continues to be questioned by the community agencies and their members.

I'd first like to address classification of complaints. Bill 105 empowers the chief of police to determine whether a complaint is about the policy of or services provided by the police force or the conduct of a police officer. Further, the chief of police has the power to decide to not deal with a complaint if he or she deems that the complaint is frivolous or vexatious. This amendment empowers the chief of police with the authority to arbitrarily dismiss any complaints. This amendment does not provide for any accountability on the part of the chief of police.

It is our position that the classification of complaints should continue to be the responsibility of a civilian oversight body. Further, no complaint should be dismissed merely on the grounds that it is frivolous or vexatious without an investigation, written reasons given to the complainant and a right of appeal.

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**Ms Lena:** Next we want to address third-party complaints. Under Bill 105, a complaint can only be filed by a person directly affected by the policy or service of the police force or the conduct of a police officer. The bill does not define "person directly affected." Bill 105 gives the chief of police the power to determine whether the complainant is directly affected and subject to the review of the new commission upon the complainant's request.

These amendments severely undermine both the accountability and accessibility of the police complaints system. The amendments place the burden exclusively on the victim to file a complaint. This is analogous to requiring that an abused woman file a complaint with her abuser after she has been beaten up.

Secondly, the elimination of third-party complaints limits the democratic rights of all Ontarians by preventing people who witness abuse by police officers from acting to redress the abuse of power that they have seen.

Finally, the amendments deliver a carte blanche to the chief of police to determine who exactly has been victimized by members of his own organization. An accessible police complaints system must include provisions for third-party complaints, for anonymous complaints and for complaints to be filed by community organizations on behalf of individuals.

**Ms Allard:** I now turn to the investigation of a complaint. Under Bill 105, all investigations will be done by the local chief of police or his or her designate. The chief of police does not have to file any investigative report with the new commission. This effectively removes any civilian investigative power into police complaints and removes any civilian review power of investigations completed by the police. If the civilian body does not have the power to investigate or have an inherent right of review, there is no guarantee that the investigations will be thorough, fair or impartial.

The investigations of complaints must be handed over to a civilian agency. This agency must be representative of communities it services. This agency should be assigned to do the investigations, maintaining the whole process separate from the police force. This would assist

in restoring public trust in the police complaint system. Further, having the totality of a complaint processed within one agency can potentially speed up the process and reduce costs.

**Ms Lena:** Next we will address filing a complaint. Bill 105 requires that police complaints be filed with the division of the police force to which a complaint relates or with the new commission. As it stands, individuals who wish to make police complaints are often fearful of laying complaints at local police stations due to the intimidation and harassment they have already experienced. Furthermore, legal clinics have documented increased harassment of individuals by local police officers after they lay complaints. Thus, restrictions on where a complaint may be filed make the system less accessible to people who wish to complain about an officer in their community.

All public complaints should be filed with a streamlined civilian oversight agency or satellite offices of that agency, not with local police departments. This will ensure accountability and accessibility to the citizens of this province.

**Ms Allard:** Giving the chief of police the power to classify, the power to determine whether a complainant is directly affected by the conduct of a police officer, the power to decide whether to deal with a complaint without having to give any reasons for his or her decision, the power to conduct an investigation into a complaint and the power to resolve a complaint informally, without the consent of the complainant, defies the rules of procedural fairness. The chief of police is a member of the municipal or provincial police force. Bill 105 effectively makes the chief of police a decision-maker without any accountability.

**Ms Lena:** Since the beginning of 1996, eight Ontarians have been shot by police officers. Community mobilization in response to this increasing police violence has been vigorous. The public no longer has confidence in an increasingly violent police force, nor in a government which sees fit to place this police force above the law.

The importance of a truly independent, accountable system of citizen review of police cannot be overstated. Bill 105, if enacted in its present form, will severely erode the principles of accountability and send a message to the police that they will not be held accountable for the abuse and misuse of their power. The changes proposed in Bill 105 are completely unacceptable to the people of Ontario. We take the position that Bill 105 is not salvageable. It is a piece of legislation that will place the police of Ontario above the law. Therefore, it should be withdrawn. In its place, a civilian oversight system based on the principles set out in the coalition report *In Search of Accountability* should be introduced by way of new legislation.

**The Chair:** As our time has elapsed, I thank you very much for your excellent presentation here today.

#### PEEL REGIONAL POLICE ASSOCIATION

**The Chair:** Our next presenter is the Peel Regional Police Association, represented by Mr Stu Campbell, administrator. Welcome, sir.

**Mr Stu Campbell:** Just for the information of Mr Kormos, we don't have bake sales in Peel.

Members of the committee, I'm here to speak on behalf of the 1,100 uniformed members of the Peel regional police service. These members have some major concerns with the proposed amendments to the Police Services Act, particularly the amendments to the hearings and appeals processes.

At some point in their careers every one of these members could face an allegation of misconduct arising out of some alleged disciplinary infraction. These amendments would have significant ramifications on the legal rights of these officers. The members of the Peel regional police service and all serving police officers in this province deserve to be accorded legal fairness in the disciplinary process, fairness in the form of the preservation of the existing legal and procedural safeguards that govern the hearings and appeals processes.

This committee must be under no illusion about how profoundly the proposed legislation would destroy the legal rights and procedural safeguards of all police officers in this province. This legislation is without precedent and without justification. This legislation will not save the taxpayers of this province one cent, yet it will eradicate legal rights and protections that all previous governments in this and all other provinces have recognized as fundamental and essential for police officers for the last 75 years.

The late Arthur Maloney QC, arguably the foremost criminal lawyer and jurist this country has ever seen, stated in the early 1970s that police officers, by virtue of the legal obligations facing them as they carry out the most dangerous of all public responsibilities, and that's the protection of public safety and the enforcement of the law, were not to be treated as if they formed just another group of public employees in the discipline process. The labour model has no place in the police discipline process. The proposed legislation would instantly transform policing into that very mode. In short, this proposed legislation means nothing short of the deprofessionalization of policing.

The most basic characteristic of procedural fairness is having the right to a hearing before a finding is made against you. Fairness also envisages a hearing where the charge is required to be particularized, where the law requires that it specify the alleged infraction of the code of offences and not where it may be arbitrarily conjured up in the mind of the chief or the sergeant in charge of the division under the basket clause of "unsatisfactory work performance"; a hearing where reasonable disclosure is required; a hearing where an officer is faced with only one prosecutor; a hearing where the prosecutor has the burden of proof, which never shifts and which is at least on the basis of a requirement of clear and convincing evidence; a hearing where the officer cannot be compelled to give evidence if he does not wish to; and a hearing where the officer is tried by a senior officer who is unbiased and has a familiarity with policing issues and who acts in accordance with the principles of fairness and natural justice. As well, fairness is having the right to an appeal where errors in the hearing process can be rectified.



These two keys to fairness, the right to a hearing before a finding of misconduct is made and the right to an appeal, would be largely destroyed by the new bill. My membership asks that you ensure that fairness in the hearings and appeals process is maintained.

**1630**

Policing is a unique profession. It is unique in the special powers and special obligations that are a part of policing. Officers are required to maintain peace and to enforce laws. They deal with people who break the law and who would readily seek to use deadly force against them to avoid arrest. The very recent incident in Toronto this past Friday is further proof of that horrifying reality. They are required to use force, if necessary, to carry out their public duties. Officers are accountable for using force in the discharge of their duties. They are also accountable for failing to do so.

The issues they deal with on a day-to-day basis are complex ones. Police officers operate under more intense public, media and legal scrutiny than any other profession or employment. There are groups and individuals who are ever ready to allege criminal and/or disciplinary violations against them. The possibility that officers may be faced with a criminal or disciplinary offence simply because they are doing their job is a very real one. That is why it is important that there be fairness in the disciplinary process. Police officers should be entitled to fundamental justice in their hearings and in the appeal process. Integrity must be maintained in the system. These amendments must be reconsidered.

The proposed bill will import arbitrary power into the discipline process by permitting a finding of misconduct and the imposition of inordinately severe penalties against an officer: a forfeit of up to five days' pay without a hearing. Anyone with the slightest familiarity with the discipline process would know that the vast majority of discipline hearings do not result in penalties as severe as this. The proposed bill would therefore mean there would be little real likelihood that an officer will have any opportunity to defend himself. This bill will ultimately destroy the morale of police officers. As a consequence it will harm the citizens of this province who look more and more frequently to the police for their protection and for their peace of mind.

My membership asks, who drafted this legislation? Do those who drafted it really have any idea what it will mean once it's put into effect? My members ask for the following amendments to the proposed bill.

With respect to the hearings process:

Remove any reference to the basket clause of "unsatisfactory work performance."

Reintroduce section 59 of the Police Services Act so that for non-serious misconduct an officer could face only admonishment, unless he otherwise agrees, and then he would be entitled to an internal disciplinary hearing. The proposed offer of the arbitration process, which is an after-the-fact and costly remedy, is no remedy at all.

Provide that the complainant should not be afforded full party status at a hearing, the result of that being that an officer would face two prosecutors at the same hearing. There's never been a need shown that this is needed, and we would ask for an amendment there.

Ensure that an officer cannot be compelled to testify at his own hearing.

Allow for an officer to be reprimanded instead of or in addition to a penalty where an officer is found guilty of misconduct.

Remove any reference to alternative penalties. An officer should only be subject to such penalties as a reprimand, days off, loss of pay, gradation in rank, suspension or dismissal.

With respect to the appeals process:

Give back the full right of appeal that officers have always been entitled to.

Remove any appeal from a finding of not guilty.

Delete any amendment that gives the commission the power to substitute its own decision for that of the trials officer on an appeal.

Unsatisfactory work performance: I guess one of the most important safeguards an officer can have is that misconduct is codified in the code of offences. An officer could not be subjected to the threat of discipline and to the risk of dismissal at the whim of the chief or of a complainant. The officer would have notice as to what conduct could be legally capable of constituting misconduct.

The proposed legislation incorporates something called "unsatisfactory work performance." This is nothing more than a basket clause. If the conduct for which the chief wishes to discipline the officer is not to be found within the code of offences, the chief would be able to rely on this new provision of "unsatisfactory work performance" under section 75.

"Unsatisfactory work performance" is not defined in the bill and could be defined in an arbitrary fashion by the chief of police or his delegate to include any matter that is typically dealt with in a performance evaluation or otherwise. This proposal could leave open the possibility that hearings could be held where an officer has not issued enough summonses or tags, where it is alleged that he has put on too much weight, that he doesn't work well with his fellow officers, that he does not accept criticisms by his supervisors, that his report writing skills are not adequate or merely that his sick reports are poor.

One could submit that you could take any category in a performance evaluation report and turn it into a hearing into whether an officer is guilty of unsatisfactory work performance and make the officer subject to penalties for previously unarticulated deficiencies. An officer is already subject to discipline if he neglects his duties on today's date.

Without a definition for "unsatisfactory work performance," an officer would not know what performance is subject to discipline. Inclusion of "unsatisfactory work performance" in the Police Services Act would inevitably increase the number of hearings, because we certainly would be fighting that fight.

As well, we have a concern that consistency across the province in terms of what the various chiefs of police would deem to be unsatisfactory work performance would suffer. Consistency is the hallmark of fairness.

Misconduct and the accompanying threat of discipline will literally be in the eye of the beholder with the basket clause of "unsatisfactory work performance." It is clear



that the institution of the discipline process will, if this bill becomes law, be nothing short of arbitrary.

The members of Peel Regional Police ask that you delete section 75 of the proposed amendments and any reference to "unsatisfactory work performance" in this bill.

The next subject I'll deal with is no hearing and non-serious misconduct.

Under the proposed bill, the chief would have the discretion to determine whether the alleged misconduct was serious or non-serious. The bill provides no guidelines as to how this determination is to be made. This will determine whether or not an officer will get a hearing.

If the chief is of the view that the alleged misconduct falls into the non-serious category, he can impose a very substantial penalty on the officer without a hearing. This provision in subsection 63(16) is the single most striking feature of this proposed bill.

Never before have police officers in this province been subject to disciplinary penalty without a formal hearing. There will be no proof "on clear and convincing evidence." There will be no particularized charge sheet or complaint. Indeed, charge sheets and complaints will be unnecessary in view of the new basket clause called "unsatisfactory work performance." The code of offences will become redundant and obsolete. There will be a finding of guilt and a swift imposition of penalty without a hearing. The penalties will include the forfeiture of up to five days' pay or 40 hours' pay — fairly substantial.

Members of the Peel Regional Police force ask that there be a deletion of subsection 63(16) and a restoration of section 59 of the Police Services Act such that for non-serious misconduct a chief may admonish the officer, but if the officer does not accept that admonishment, he will face a disciplinary hearing before a trials officer and not face the costly grievance arbitration process, which leads me into the grievance arbitration process.

**The Chair:** Sorry, Mr Campbell. You've only got about three minutes left. I'm not saying you can't do it, but there might be points — we all have the written report — that you want to emphasize.

**Mr Campbell:** I think I'll just roll along because there are a few points that are certainly of concern.

1640

**The Chair:** Okay, fine.

**Mr Campbell:** What will the officer's remedy be in the proposed amendments when the chief has docked him five days? His only remedy under subsection 63(18) will be to grieve the discipline. The penalty, however, will already have been imposed and the matter will have been recorded in his employment record, notwithstanding that the officer has grieved the issue.

The officer will, if he has the backing of his association, be able to take the matter to arbitration. The costly arbitration process begins, costly not only to the association but also to the force. His association will be required to pick up 50% of the cost of the arbitration process and the force the other 50%. The arbitration process will have commenced and the officer may be able to look forward to a happy day two or three years down

the road when, at a cost of thousands of dollars, he may or may not be successful in his arbitration.

Under the new proposed amendments, an officer may be compelled to testify at a hearing. In subsection 68(6) of the bill, with the deletion of the words "Despite section 12 of the Statutory Powers Procedure Act," there will now be a risk that an officer may be compelled to testify at a hearing. We would ask that section 68(6) be amended to read: "Despite section 12 of the Statutory Powers Procedure Act, an officer shall not be required to give evidence at a hearing."

Furthermore in this bill, in addition to the severe financial penalties of loss of pay without a hearing, the chief will be able to order an officer to participate in a host of other programs and activities. Enforced attendance at behavioral modification courses could be ordered. These might include anger management, gender and race sensitivity courses, drug and alcohol abuse counselling, as well as others. We are concerned that participation in such programs could be required by a chief of police for reasons other than the proper ones. These additional penalties would be recorded and permanently on the officer's employment record. We have some major concerns with that.

Finally, for the officers to have confidence in a disciplinary system there must be a full right of appeal. A full right of appeal ensures that there are checks and balances on the trials officer who presides at the hearing against the officer. This trials officer will realize that the decision he or she makes will be subject to review if he or she does not act on the evidence or does not act in accordance with the principles of natural justice.

**The Chair:** Thank you, Mr Campbell. I believe your time is up. We have the written copy, so we can follow along. I thank you very much for taking the trouble to attend today.

I have a question, Mr Carr. The point has come up a number of times, and perhaps everybody on the committee could obtain a copy: Is there an opinion as to whether or not the requirements to testify and the use of that testimony — could the Evidence Act of Ontario not be taken advantage of in claiming privilege?

**Mr Carr:** Where's our legal expert on that? Fred, did you want to comment on that? Could you repeat the question?

**The Chair:** The question was simply: If there is an obligation to testify, could the persons testifying not avail themselves of the protection of the Evidence Act?

**Mr Peters:** Mr Chair, I might prefer to refer that to our lawyers and we'll undertake to respond to that tomorrow.

**The Chair:** Okay, thank you.

#### LAW UNION OF ONTARIO

**The Chair:** Our next presentation will be the Law Union of Ontario, Mr Paul Copeland. Members of the committee, you received this morning the brief from Mr Copeland. Welcome, sir.

**Mr Paul Copeland:** Do you want me to try to answer your last question before I start?

**The Chair:** No, we'll rely on the legal opinion so that we all have it. Thank you.



**Mr Copeland:** I intend to deal, members of the committee, only with the special investigations unit and the duty of officers to cooperate with that investigative process.

I have included in the material for you, the second-last item at pages 17 to 20, an affidavit that was prepared for an intervention in the Supreme Court of Canada in the Stillman case. It gives you the background in relation to the law union's activities over the years relating to policing issues. I'd refer you briefly to paragraph 3 of that at page 17, that the law union was originally formed arising out of concerns about police misconduct at the Artistic Woodwork strike in 1973.

Referring to page 19, there's reference to the fact that the law union has been concerned — I'm referring to paragraph 7 — with police complaint procedure, racism in policing and police wrongdoing. There's reference in paragraph 9 to our interest in matters relating to policing. It makes reference in paragraph 10 — this relates to the Stillman case, but one which will develop the law relating to police misconduct and the exclusion of evidence under the charter.

I adopt for myself in relation to this, since this is my affidavit, I had indicated to the Supreme Court that we had played a significant role on issues of police wrongdoing, racism, the need for adequate civilian investigation, control of police behaviour.

I've also attached to the very back of the material a copy of my CV. I attached it really to show you how long I've been practising law and indicate I spent eight years as vice-president of the Criminal Lawyers' Association, I'm a long-time member of the law union and I have been, probably for too long, at the law society.

There has been a long history of struggle for adequate civilian oversight of police, and it starts probably with Arthur Maloney, who was referred to earlier, Mr Justice Morand and Sidney Linden creating the police complaint process. Where I want to start in that history, very briefly, is when the NDP was in power in this province. You may recall there was a fairly significant strike by officers mainly of the Metro police force. You may recall the newspaper picture of a number of those officers wearing baseball caps, fairly outraged in front of this Legislative Building. They were talking at that point about abolishing the SIU and abolishing the proposed requirement that they have to report when they draw guns. They didn't win either of those arguments at that particular time, but it's my view that they were sufficiently successful in intimidating the NDP from taking any action in regard to correcting the problems that existed with the SIU, particularly in regard to the requirement that police officers cooperate fully with the SIU.

In regard to the procedure or the bill you have before you now, the government met with the police and with municipal officials for over one and a half years. There was eventually a story in the Toronto Star; shortly after that the McLeod review was announced by the Solicitor General. That review process was a very speedy process. Many of us who participated in it, and there were a number of people who declined to participate, thought it was too fast, and my view, from meeting on the three separate times I met with that committee in different

capacities, was that they thought it was a little bit fast.

I would suggest to you that the non-cooperation with the special investigations unit by police officers, and particularly by subject officers, as they are called, is the most significant matter of public concern. I would refer you, in the material I've provided to you, first to where at pages 1 and 2 I've produced extracts from the Cole-Gittens committee, the report of the Commission on Systemic Racism in the Ontario Criminal Justice System. At page 1 of that they indicate: "The SIU faces a fundamental problem of antagonism and obstruction from some police services. This has been expressed in various ways, including delays in notifying the SIU of an incident and reluctance to turn over notes, reports and other potential evidence."

"Such delay raises suspicions that police 'screen' or review the form and content of the information and evidence that is being transmitted, and that the police have something to hide. There is no justification for withholding such information and evidence, which should be produced immediately upon request. Although the Police Services Act requires police officers to 'cooperate fully' with the SIU, experience indicates that a specific obligation is required to ensure the full and timely transfer of information."

They then make a couple of recommendations. Then, going further down the page, they say:

"The third problem arises when police officers implicated in a shooting refuse to be interviewed by SIU investigators. In these cases the officers typically justify their refusal by reference to the constitutional right to remain silent. A police officer in these circumstances might well be a suspect, and a suspect has no obligation to answer questions from investigating officers. However, a police officer who has used a weapon is not in the same position as other suspects."

"All police officers must accept that the authority to carry and use a firearm in the course of their employment entails a duty to explain completely any circumstances in which it is discharged. A refusal to provide such an explanation prevents the SIU from conducting the thorough investigation required by law, and thwarts the accountability that police officers must have to their superiors in carrying out their duties. Such accountability is crucial to public confidence. Suspects who wish to exercise their right to remain silent may do so. However, such a suspect should not also be entitled to continue to carry out the duties of a police officer. Officers in these circumstances should be suspended without pay."

**1650**

Then produced in the material is the very brief reference in section 113 of the Police Services Act, which reads:

"(9) Members of police forces shall cooperate fully with the members of the unit in the conduct of investigations."

Mr McLeod looked at this question, and I've reproduced for you the title page and then the chapter, section 5, on the duty to cooperate fully. Mr McLeod said, and I'm referring to page 30:

"5.2.3 It may be appropriate to clarify and strengthen an officer's duty to account in a regulatory discipline context."

"5.2.4 However, I am not prepared to recommend legislation to that effect without further consultation and legal analysis. I believe that the same practical result can be achieved, if desired, by regulation as long as the regulation-making power is clear in the legislation."

Then he makes some recommendations on the next page. It says:

"Subject to the criminal law and charter rights of a member, a police service and each member thereof shall cooperate fully with the members of the unit...in the conduct of investigations.

"The legislation should also clearly permit regulations relating to: the duty of the chief, as part of his management responsibilities, to compel an account from a 'witness' or a 'subject' officer in an SIU investigation, and the timing of the exercise thereof, and the discipline consequences of the officer's failure to so account."

It then goes on to say, "No such regulations should be passed without further research and consultation."

Then produced in the material for you is the protocol that presently exists, and it is very sketchy, in my submission to you. I would refer you to the bottom of page 12 and the top of page 13. That protocol is from 1992. There were subsequent attempts to amend that protocol in 1994 and they came to naught.

It's my submission to you that the police officers and the police generally are happy with the present situation. There is no cooperation going on with the SIU by subject officers. I think the police are happy with the status quo, and that is where the situation is going to remain, because this legislation says nothing whatsoever in relation to the duty to cooperate.

I went with a community group that met with the Solicitor General and I asked Mr Runciman about this. He said, "We're going to deal with that question by way of protocol." I predict to you that the Conservative government will remain in power and for whatever length of time remains there will be no protocol that's ever agreed upon. I think it's incumbent that this legislation deal with this question.

As some indication of what I regard as the police comfort with the present situation, I have reproduced for you a letter I sent to Mr Walters, the president of the Metropolitan Toronto Police Association. That's at page 15. I acknowledge that we seem to be on different sides most of the time on these issues. I asked him if the association had "any written suggestions or recommendations to police officers or their counsel in regard to the problems in dealing with the SIU. If there is such written material would it be possible for me to get a copy of it?" I can tell you I have received nothing whatsoever from Mr Walters. I haven't received the courtesy of a reply from him.

I did go on to set out for him what I intended to propose to the committee in regard to the situation of a subject officer. It is set out on the bottom of page 15. What I recommend to you is that subject officers be required to cooperate, that there be legislation setting out that duty to cooperate. I'm not desirous of having the officers lose what protections they have under the charter. The suggestion in the letter to Mr Walters and the

suggestion I make to you is that the statements should be statements that cannot be used in any prosecution of the officers, save and except perjury, that they be regarded as compelled statements and that they be inadmissible.

I further went on to say to Mr Walters, and I say to you, it is a very important question, when an officer has shot and seriously injured or shot and fatally injured a citizen of this society, that the officer not be allowed to return to the street with a firearm until such time as he's given an account of his behaviour. I certainly fully acknowledge that he's entitled to counsel before he does that. I'm not suggesting that he not be entitled to speak to counsel, but I think at the conclusion of speaking to counsel there should be a legislative scheme that says, "If you decide you're not going to speak to counsel in a statement that won't hurt you in any potential prosecution of you, you should no longer be carrying out your police functions, at least until the conclusion of the investigation, and if charges are laid, until the conclusion of the criminal charges."

I'll make one last brief comment. In regard to a case that is presently before the courts, and I will try to restrict my comments so it doesn't impact on that case, I act for Shaheen Kamadia. Her son, Faraz Suleman, was shot and killed by an officer of the York Regional Police force. Ms Kamadia I'm sure would be before you if she were in the country, but she's presently out of the country. The subject officer in that case refused to speak to the SIU. He had, as a result of the discharge of his firearm, caused the death of a 17-year-old, her son. He remained on duty throughout the time that the SIU was investigating the matter. He's now charged with manslaughter. He is still on duty with the York Regional Police force.

Subject to any questions you have, those are the submissions I wish to make to you.

**The Chair:** We have time for one-minute questions.

**Mr Ramsay:** Mr Copeland, I'd like to thank you very much for your presentation. You've injected a couple of very interesting ideas into the discussion this afternoon and I'd certainly be prepared to take a look at them in our consideration for amendments.

**Mr Kormos:** Very quickly, if I can. You speak of the compulsion to make a statement, failing which you're no longer a police officer; you're suspended without pay.

**Mr Copeland:** I'm not sure I'd go so far as "suspended without pay." That is what Cole and Gittens said. Since every other police officer suspended is usually with pay, I'm not suggesting they take the pay away from them during the time period that things are going on. I leave that to be fine-tuned in the legislation.

**Mr Kormos:** If the purpose of compelling the statement is to require the police officer to relate his or her version of what happened, one can circumvent that then by, let's say, submitting to a suspension. One of the interesting things in the submission from York regional: There were a couple of newspaper accounts, one of a police officer who cooperated with the SIU, made a statement to them, participated in the process, another who didn't, if I've got that correct. The narration is of the horror show or the lack of cooperation, the police officer



who indeed felt he went the whole nine yards to cooperate. You almost have there an obligation without any remedy on the part of the community for the failure of that police officer to abide by that obligation. How do we overcome that?

**Mr Copeland:** If I understand your question, presently there's an obligation to cooperate. Nobody is cooperating, at least as I understand the process. Certainly from talking to lawyers who are representing police officers, their recommendation is, "Don't cooperate, don't speak, perhaps turn over your notes from the incident if you made any," and that's basically about where things stop and there is no remedy. I think there is no remedy at the present time because the police chiefs will not say to the officers, "I think you have a duty to cooperate; I think you have a duty to speak to them." It's something with which I'm dealing with York regional force right now in relation to the Suleman shooting.

**Mr Carr:** One minute doesn't give us very much time, so I just want to thank you for your time and for your

submission. We appreciate your coming here and appearing before the committee.

**Mr Copeland:** My pleasure.

**The Chair:** Thank you, Mr Copeland. You've raised a number of interesting issues for the committee.

Our last presentation for the day is the Toronto Coalition Against Racism, Ms Mary Gellatly. Is Ms Gellatly here? It would appear not.

**Mr Tilson:** I propose that we adjourn until tomorrow morning.

**The Chair:** There's a motion for adjournment. Any objection?

**Mr Kormos:** Ms Gellatly could be contacted and we could find a way of slotting her into another slot. I'm sure she'd be here were it not for something untoward having happened.

**The Chair:** Perhaps we could have our clerk attempt to determine it. We are adjourned until 10 o'clock tomorrow morning.

*The committee adjourned at 1659.*

## **STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE**

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**Clerk / Greffier:** Mr Douglas Arnott

**Staff / Personnel:** Mr Andrew McNaught, research officer, Legislative Research Service



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**Legislative Assembly  
of Ontario**

First Session, 36th Parliament

**Assemblée législative  
de l'Ontario**

Première session, 36<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

Tuesday 18 March 1997

**Journal  
des débats  
(Hansard)**

Mardi 18 mars 1997

**Standing committee on  
administration of justice**

Police Services  
Amendment Act, 1997

**Comité permanent de  
l'administration de la justice**

Loi de 1997 modifiant  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Tuesday 18 March 1997

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Mardi 18 mars 1997

*The committee met at 1001 in room 151.*

## POLICE SERVICES AMENDMENT ACT, 1997

LOI DE 1997 MODIFIANT LA LOI  
SUR LES SERVICES POLICIERS

Consideration of Bill 105, An Act to renew the partnership between the province, municipalities and the police and to enhance community safety / Projet de loi 105, Loi visant à renouveler le partenariat entre la province, les municipalités et la police et visant à accroître la sécurité de la collectivité.

## OMBUDSMAN OF ONTARIO

**The Chair (Mr Gerry Martiniuk):** This is a meeting of the standing committee on administration of justice and its consideration of Bill 105, An Act to renew the partnership between the province, municipalities and the police and to enhance community safety.

Our first presenter is the Ombudsman of Ontario, Ms Roberta Jamieson. Welcome, Ms Jamieson. I'd ask you to proceed.

**Ms Roberta Jamieson:** Good morning, bonjour, sago, in my language. Nice to see you all here this morning. I am very pleased to be able to participate in the hearings. As Ombudsman for the province of Ontario, I was very pleased to have a chance to present my concerns about Bill 105 to this committee.

The bill, as you know, explicitly excludes the Ombudsman from reviewing complaints about the manner in which investigations of police conduct are handled. In the context of other provisions of the bill, this gives me cause for concern.

As Ombudsman, as you know, I deal with a broad range of complaints from individual members of the public who believe that they have been treated unfairly in the administration of public services. As such, I have a responsibility to speak out when there is any threat to the continuing existence of the public's right of recourse to effective complaint procedures.

As you may know, I have recently commented on the need to preserve this right of complaint when public services are restructured. The effect of Bill 105 on independent civilian oversight of the police is one of several government initiatives where I believe there is cause for very serious concern.

What do I mean by an effective complaint procedure? At a minimum, I think there are three essential elements.

First, every organization that provides public services should have an internal complaints process that is designed to deal with problems as they arise.

Second, for complaints not resolved at the initial stage, individuals should have the right to have the complaint dealt with by an independent and impartial person or body that is equipped with the appropriate investigative powers.

Third, clear, accurate and accessible information about the complaint process should be publicized.

Bill 105 does not meet these minimal standards, because it proposes to eliminate the existing independent and impartial process of last resort. If the final resort for complaints is not genuinely independent and is not seen by the public to be independent, then people will not trust the complaint process and they would have good reason to question its integrity.

It should not go without saying that policing is not just a public service like all the rest. Police have extraordinary powers. We entrust them with the responsibility of exercising authority on behalf of the state. We give the police a lot of power and authority, and we have to, or they can't do their job. But there is an inherent potential for error as well as abuse of power, and therefore the system of policing must be accountable. That surely is a fundamental reality of our democracy.

Living in a relatively peaceful and democratic country as we do, we may take for granted that the police are held accountable to civilian authority. In many other countries in the world, such assumptions are not valid. In many places, there continues to be a struggle to establish mechanisms that build public trust and enforce police accountability, and these two have gone hand in hand. Many of these jurisdictions have looked to Ontario as a reference point for their own efforts. Despite certain limitations that we may ourselves identify in the existing system we have, time and again we have been recognized internationally as a model to be emulated.

Unfortunately, Bill 105 as currently drafted represents a step backward; one that cannot be supported if we are to uphold basic standards of accountability through structures the people of Ontario can trust. Let me be more specific.

Bill 105 continues the Ombudsman exclusion from the public complaints provision of the Police Services Act, and extends this exclusion to discipline matters raised by police officers, while at the same time significantly weakening the effectiveness of the independent complaints process. Without going through the bill in detail, there are two critical areas that I do want to comment on.

First, in my view, the most significant deficiency of the bill is that the OCCPS, the Ontario Civilian Commission on Police Services, will have no power to conduct an independent civilian investigation but is essentially limited to reviewing investigations conducted by the



police. Under the current system, the police complaints commission, the PCC, has the power to conduct its own investigation when, for example, there are questions about the adequacy or impartiality of a police investigation into any complaint. In such cases, the PCC investigator may make a search of police stations and may obtain documents if that's necessary. Under the proposed bill, the OCCPS may only direct another police force to conduct an investigation, with the result that ultimately it will always be police who are investigating police. I do not believe we can expect the public to have confidence in such a process.

The other important flaw in Bill 105 is that the OCCPS will not be provided with the necessary flow of information to ensure effective oversight. For example, under the current system the police chief must send the police complaints commission notice of all complaints that he or she has decided to dismiss as frivolous or vexatious or made in bad faith. Under Bill 105, this will not happen. OCCPS will not be advised unless someone complains about the treatment of their complaint. Furthermore, at present the PCC must be sent copies of interim and final investigative reports by police of complaints. With the changes, the OCCPS won't receive this information unless a complainant specifically refers the matter to them. This will make it extremely difficult for OCCPS to identify systemic problems in the complaints process and to recommend appropriate measures to strengthen procedures.

#### 1010

In conclusion, it seems to me self-evident that, over time, we have established in this province a system of complaint procedures as a means of ensuring public confidence in the police. I think most people would agree that while this system may not be perfect, it does have at least the right elements. But if we now move to a process that does not include an impartial last resort with independent powers of investigation, there is no reason for the public to trust the outcome of investigations. In such circumstances, it would also be very difficult for the police to be seen to be cleared of suspicion when their actions are investigated and found to be justified. This is a very clear value of an independent review. It inspires confidence when it finds that public officials behaved fairly.

In my view, if Bill 105 proceeds as drafted, it will not be long before there is a lack of public confidence in the policing system, and without public support the system will break down and need to be fixed again. I would urge the committee to get it right in the first place.

I'd be very pleased to answer any questions.

**The Chair:** Thank you very much, Ms Jamieson. We have two minutes per caucus, and we'll start with the opposition, Mr Ramsay.

**Mr David Ramsay (Timiskaming):** Welcome, Roberta. Nice to see you here. I'm very pleased that you've been able to take the time to make your presentation before the justice committee of the Ontario Legislature.

I think you've got a good handle on what the problem is with this bill. What I found interesting on the first day is that I guess you could say both sides of this issue are not happy with this legislation. It deals with some of the very first elements you talked about on your first page,

that is, about originally how the complaints are dealt with.

The police are very concerned about the lack of transparency of how the chief will handle the complaint initially and are very upset that the chief has been given this new power to discipline at this initial stage without some sort of, as you go on, independent and impartial person really starting to look at this. People or community groups that represent complainants are very concerned about this too.

Do you have any sense of how an initial complaint could be dealt with internally by the police? How would you anticipate we would start with an independent and impartial person looking at it in the next stage? Do you have any ideas on how we could redraft this?

**Ms Jamieson:** I think the key point, Mr Ramsay, is that I didn't come with my own blueprint to offer this morning, except to say that it is important that internal mechanism be there so that the people involved initially have an opportunity to solve the problem, but if it doesn't happen, people must have recourse to an independent and neutral body. That body needs to be equipped with powers: powers to obtain documents; powers to initiate investigations; powers to make their report, I would suggest, public if it's not taken seriously.

When we created the office of the police complaints commissioner in this province, it was a dramatic step forward. If anything, movement should be going to enhance that independence. In some parts of the world, there's a police Ombudsman who is responsible to the Legislature, and that may commend itself to your review. But I think this bill goes in the opposite direction by making the complaint ultimately to be reviewed by a body that answers to a minister. It essentially will be seen by people to be part of government.

I think the independence, the appointments process, who they're answerable to and equipping it with appropriate powers are all elements that I would commend to the committee's attention.

**Mr Peter Kormos (Welland-Thorold):** Thank you, Ms Jamieson. Your views appear to be very much in line with those of the International Association for Civilian Oversight of Law Enforcement, which wrote to the Premier on March 13 indicating that the Ontario complaints oversight model was one which other jurisdictions look to for leadership, and now it very much appears to be being abandoned, the civilian oversight aspect of it.

There's been concern raised in a Toronto Sun editorial on March 10 and by others who appeared, obviously, yesterday, and both police officers and social justice advocates and other advocates have raised concerns about the failure of this bill to address subsection 113(9), which is the duty of a police officer to cooperate, and that's arisen of course primarily in SIU investigations.

Some police officers have — and we received information about that yesterday — inevitably after receiving advice of counsel, cooperated by way of submitting to interviews by the SIU; others have similarly declined to. There appears to be concern about the lack of clarification about the duty to cooperate. Do you think that's an important consideration?

**Ms Jamieson:** In answer to the member's question, I can only say I've not turned my mind specifically to that

issue but would say that there's an important provision in the Ombudsman Act that obliges public servants to cooperate, and if they don't cooperate, it's an offence. The penalty is not great, but it is an offence, and it's a very important feature of the act. You can't do your job as an independent investigator if people won't cooperate with you. If people aren't obliged to cooperate with you, they then have the choice not to, and it really would make for a very frustrated and out-of-balance investigations process. I think it's key.

**Mr Gary Carr (Oakville South):** Thank you very much, Roberta. It's good to see you again.

**Ms Jamieson:** Good morning.

**Mr Carr:** I've been around here a long time, and now you seem like a regular when you come through here. We always enjoy your presentations.

On page 2, you talk about the power of OCCPS. As you know, the power that OCCPS has comes through section 23 of the Police Services Act, and it's very detailed on what their powers are. On page 2, you talk about them not having enough powers. Were you able to review section 23, which outlines specifically the powers the commission has? It seems to me we aren't changing that. Is some of the criticism you have relating to that section and the power they have? If so, how do you see it changing to give them the power they need? There are many who believe that section 23 has enough power. Would you like to comment on that?

**Ms Jamieson:** One of the main areas of concern for me in the powers area has to do with the fact that at the moment the system allows the PCC to raise a complaint themselves. Under the bill, as I understand it, the OCCPS will not be able to complain or raise a complaint. Under the bill, they do not have express investigatory powers. Those are some of the key areas. Also under the bill, they won't have the information coming to them that will allow them to get a sense of systemic issues, which is another area.

As the Ombudsman, one thing I find I'm increasingly spending time on is looking at systemic problems or problems throughout the system. Unless you're getting reports on a regular basis throughout the province, you don't know if a problem is isolated, if there's a general improvement one could put forward that everyone could benefit from; that's missing. If one had that information and the ability to initiate an investigation, that's a very valuable aspect of a complaints process and would benefit the policing services agencies tremendously.

We're always looking for systemic reviews; we're looking for systemic efficiencies; we're looking for ways of streamlining procedures. That's a key way of accomplishing it. Those are the areas that trouble me greatly.

**The Chair:** Our time is up, Ms Jamieson. Thank you very much for attending and helping us with our deliberations here today.

**Ms Jamieson:** Thank you very much. I wish you well in your deliberations.

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## 519 CHURCH STREET COMMUNITY CENTRE

**The Chair:** Our next presentation is 519 Church Street Community Centre, Alison Kemper. Welcome, Ms Kemper.

**Ms Alison Kemper:** Good morning. How are you?

**The Chair:** Very well. We have 15 minutes allotted for you, including questions, so let's proceed.

**Ms Kemper:** I'll be brief. I am here today to speak to Bill 105 and its impact on the communities we serve.

First, some background: The 519 is three blocks east of here, at Church and Wellesley. We provide a meeting place and services for the neighbourhood around us. We have a summer camp for kids, a family resource centre, seniors' programs and programs for developmentally disabled adults.

Our neighbourhood is predominantly gay in its businesses, culture and residents. The most significant program we provide to the gay community is the victim assistance program. In 1990, we started to take calls from persons who had been attacked solely on the basis of their perceived sexual orientation. Since then we have provided assistance, referral and advocacy to victims of hate-motivated crime and same-sex partner abuse. We have also worked extensively with police in our division and across Metro to improve police awareness and service in these areas.

In 1996, we received reports on 129 hate-motivated assaults on 159 victims and 24 reports of partner abuse. This reflects an increase of 142% over 1995. For many reasons, it is far higher than the number of reports logged at the Metro police hate crimes unit.

We have worked hard with police to help them understand the victims, and we have worked hard with victims to help them report to the police. In 1994, we received a grant from the Solicitor General to work on this issue in particular. We believe that we have achieved a great deal in this regard. However, in spite of all of the work we have done and that which 52 division has done, we still get reports of police mistreatment, police attack and police insensitivity.

Because of these successes and failures, we are deeply committed to civilian oversight of the police. We have experienced good relations with the police when we have gained some measure of accountability from them.

Only with an effective, independent, autonomous civilian oversight agency can police-community relations achieve their potential. Without it, police might too easily forget that they are here to protect the public and preserve the laws of the people.

Civilian oversight allows the interests of the police and the policed to converge as a normal part of the management and quality assurance process. Deferring this process or moving it upstairs to the parliamentary process creates a kind of brinkmanship, solving the problem after it's much too late. One need only to look at the embarrassed and discredited line of defence ministers in Ottawa to see what happens when civilian oversight emerges long after the fact in a public enquiry.

As well, the immediate consequences to the taxpayers and public are often disastrous. To illustrate this, let me take you through the process when a person has experienced a hate-motivated attack on the basis of their perceived sexual orientation. This is known popularly as "queer-bashing."

Typically, one or two men are walking down Wellesley Street in the evening when a group of young men in a car



drive up, shout vicious slurs, jump out of the car and assault the pedestrians. It is an unprovoked attack. If they are lucky, they are unhurt. Even if hurt, they may not seek treatment because they fear this will make public their sexual orientation. If they seek help from the police, they may not get a prompt response. When the response comes, it may be accompanied by verbal harassment or even, in the worst case, subsequent physical assault.

The community all know the stories. They know it was not too long ago that gay men and lesbians were routinely carted off to Cherry Beach, beaten and left. They know that calling the police meant revictimization. They will not be willing to call the police chief's office to expose themselves to further victimization and degradation. They are scared.

If there are bad apples in the police barrel, the public and the police's own management need to know this. It is in all of our interest to make the report of these victims come forward.

I think this is a question of how we manage policing. How can we as the people and their elected officials get those reports in order to do quality control? I think you're going to hear a lot of folks saying, as I will say this morning, by offering an arm's-length process. If it is not the police but a different agency, the victims in our story won't be so afraid.

Another way to get the reports that you as the elected officials and we as the people need is by making the complaints process not only fair but transparent. No one will be able to complain that the police are covering up if everyone can see. The community can trust the process. Under Bill 105, if he was that kind of guy, a police chief might be able to bury complaints internally, allowing issues to surface far too late.

Another way is by ensuring that the civilian oversight body reflects the range and diversity of the people of this province. The police and the community must see that they see each other as similar, not alien. If historical differences in demographics between the police and the rest of the community recur on the oversight body, we will be back in the same place. Oversight must be done by people who are like their neighbours.

Finally, on behalf of the folks we work with at the 519, I urge you to allow third parties to come forward. We are often in the position of knowing a problem about the police that the person who has experienced the problem is in no position to make known. People are very afraid of being outed. They are very afraid of being further revictimized in their families, among their friends, in their workplaces and in the press. Some degree of third-party assistance and victim anonymity must be preserved.

All of these suggestions are ways that I, as a manager with some degree of complaint responsibility in my agency — this isn't in the text, but I'll say that I often call myself the complaints department at my agency. In some way, you are ultimately the complaints department and have some responsibility for the management of the police forces in Ontario.

I don't think this bill will enhance our collective ability to manage policing in Ontario, to turn it into the most positive experience we could all have. You have the legal

responsibility to do so. You need to enhance your mechanisms for management, not erode them. I urge you to withdraw Bill 105.

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**Mr Kormos:** Ms Kemper, on the third-party complaint status — I think that's very important — we heard yesterday from some presenters who didn't want third parties involved. We heard from one person from a municipal committee in North York that dealt with racism, among other things, who felt that third parties should be restricted to an advocate; in other words, if I'm your lawyer or I'm your preacher or I'm your doctor. But I trust you're speaking of third party in that if I witness something I believe to be inappropriate, regardless of whether or not the victim of that behaviour is inclined to report it, you're suggesting I should be able to report it, notwithstanding that I was standing across the road and didn't know either of them. Is that your interpretation of third party or is it more restricted?

**Ms Kemper:** I would think that if we here, with the exception of me, are the management committee of the province, you want to know what's working and what's not working before it blows up on the front page of the Star, is that not right?

**Mr Kormos:** Or the Sun.

**Ms Kemper:** Or the Sun. It seems to me that one of the ways you get the quality assurance you need is to invite people to come forward and let you know and to make it as safe as possible for third-party complaints to come forward. They can be dismissed as specious at a later date, but if you tell people they can't even let you know what's going on with your uniformed civil servants, you're not going to get the quality control you need.

**Mr David Tilson (Dufferin-Peel):** Section 56 states with respect to complaints by the public, "Any member of the public may make a complaint under this part about the policies of or services provided by a police force or about the conduct of a police officer." Are you telling me that section isn't adequate?

**Ms Kemper:** I think it is worth having third-party complaints about any event, whether or not that's services in general or a particular attack on someone.

**Mr Tilson:** In my view that's what that section says.

**Ms Kemper:** There seems to be some debate about that.

**Mr Tilson:** Can you tell me why that section doesn't mean what I think it does? I say it means that any member of the public, to use the words, may make a complaint about anything.

**Ms Kemper:** It will be a complaint only to the police chief at that point, not to OCCPS.

**Mr Tilson:** It goes to the chief of police, and ultimately if that isn't satisfied it can go to the police services board.

**Ms Kemper:** You caught me here, as I have not —

**Mr Tilson:** I'm just reading the section. I suppose I have one other question, Mr Chair, if I have —

**The Chair:** You don't really have time, Mr Tilson.

**Mr Ramsay:** Just a couple of things here: Before I ask you a question, I'd like to ask the ministry if they could give us their rationale why they don't want to allow third-party complaints any more, what the problem has

been and why that's being restricted in this, so we could maybe get that later.

I want to get back to Mr Kormos's question, because I think it's pretty important, about third-party complaints, especially because of the sensitivity of the community you work with. Are you saying you would want it wide open so that if I saw what I perceived as a gay-bashing incident on Wellesley Street I could call the police without the permission of the alleged victims and make that complaint, especially with the sensitivity in this situation that you've alluded to in your presentation, or are you talking about a third-party complaint that you in the community centre, with the permission of the alleged victim, would make on the victim's behalf? Is that what you mean or how open would you want this?

**Ms Kemper:** I think it's a question of who needs policing. We all need policing, we all need good policing. If I have seen something and I have never been in contact with the victim, I might still feel it was in my interest and in the interest of the province or of my fellow citizens in the province to let people know something had happened, whether or not that was a pothole or a police attack. So on one level we're asking citizens to be responsible for their own services by allowing them to make a report; on another level we are also looking for the ability of advocates to bring forward particular issues of particular victims.

**The Chair:** Ms Kemper, thank you very much for attending.

**Mr Kormos:** On a point of order, Chair: Subsection 57(1) says, "A complaint may be made by a member of the public only if the complainant was directly affected by the policy, service or conduct that is the subject of the complaint." Perhaps Mr Tilson should read the whole bill.

**Mr Tilson:** I am reading the whole bill. Do you want to get into a debate about —

**The Chair:** No, we're not getting into a debate. That's not a proper point of order, as Mr Kormos realizes.

**Mr Kormos:** Thank you, Chair.

**Mr Tilson:** I'll debate it —

**The Chair:** We're going to debate it through clause-by-clause. That's exactly what clause-by-clause is.

#### ONTARIO ASSOCIATION OF CHIEFS OF POLICE

**The Chair:** We move on to the Ontario Association of Chiefs of Police. Welcome, gentlemen. I must declare a conflict as Chairman. I happen to have a great affinity for the Waterloo police department, as I served on the police services board in the olden days, so to speak. I also have a great affinity, with justification, for our Chief Gravill, who is an excellent chief of our force. With that introduction, you know where I stand.

**Mr Trevor McCagherty:** Good morning, Mr Chairman. My name is Trevor McCagherty and I'm the chief of police for the regional municipality of Durham and currently the president of our association.

On my right is the gentleman you introduced, Chief Larry Gravill from the Waterloo Regional Police Association, who is the first vice-president of our association, and Chief Kevin McApline is the past president of the OACP. In the audience with us this morning is the

executive director of the association, Mr Malpass from Sault Ste Marie, and Chief Bruce Richards from Ingersoll, Ontario.

Thank you for the opportunity to make a submission we believe will be helpful to the committee, at least we hope so.

First, a little about our association. Police chiefs in Ontario had an active role in the Chief Constables' Association of Canada following its inception in 1905. By 1951 Ontario's police chiefs, identifying a need to establish themselves as a recognized police interest group on a provincial level, founded the Chief Constables' Association of Ontario. The association opened its membership to senior officers and police managers, thus changing the name to the Ontario Association of Chiefs of Police in 1965.

The association currently has 600 members. They are sworn and civilian police leaders from municipal police services, first nations policing, the Ontario Provincial Police, the Royal Canadian Mounted Police and private police. Associate members are those who are persons qualified in police or other law enforcement activities or have professional attainments in police science or administration.

The diversity of our membership provides us with a wide variety of viewpoints and we have gone to considerable effort to ensure that our representations to the committee reflect members' views. The OACP strives to strengthen the professionalism and leadership skills of our members, emphasizing a proactive approach to policing and accountability to our communities. Our association played an active role in the police summit process and the post-summit process alongside the other stakeholders who participated.

Ontario's police leaders face significant challenges in maintaining and contributing to the improvement of the quality of life in our communities. Thus the cornerstone of our representation to you is not how proposals affect us as individuals; rather, how the proposals affect the quality of life of our citizens and the members of our services.

It is important to understand that our association takes very seriously its responsibility to play a positive role in managing change. The changes proposed in this legislation are perhaps the most significant changes in recent history. We have a myriad of issues we would like to discuss; however, in recognition of our time limit we will only be mentioning a few. I have submitted a list of technical and substantive changes we are urging the government to consider. It should not be concluded that by not mentioning them today we deem them unimportant.

The issues we will comment on are:

The importance of adequacy as a measurement instrument for the provision of policing services.

The costing process, and more specifically the frequency with which a municipality may seek a costing for alternative police service.

Municipal agreements to share police services, particularly the need to amend or delete section 7(2) which we see as restrictive to the community in selecting a method of receiving policing services.



The development of the revised code of conduct.

The special investigations unit, particularly the establishment of a workable protocol between the unit and the police.

Finally, the Ontario Police College and our concern about the college's ability to meet the training needs of our communities' police services.

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There is unanimity among us that the most important standard to be developed is that which deals with the definition of adequacy. The definition of adequacy is the linchpin of many issues. To be candid, within the constituencies of our association it means many things to many people. To the leaders of large police services, it may be seen as the mechanism by which political interference is minimized. The leaders of medium-sized police services are concerned about emphasis on specialized services and equipment. The leaders of smaller police services fear it is the means by which they will be eliminated. We are prepared to play a significant role in helping to determine the definition of adequacy. Clearly, the final result will have to be achievable, credible and enforceable.

The process of considering alternatives for policing service has been referred to as the costing process. This process, as referred to in the legislation, has no limitation on the frequency with which a municipality may seek a costing. We urge you to consider placing a time restriction on this frequency. This restriction would diminish the opportunity for municipalities to use the costing process as a battering ram in both budget and collective bargaining situations. It would also eliminate annual uncertainty in policing services and the abuse of scarce government resources to respond to requests.

Municipal agreements to share police services may well be the way some municipalities take. There is some confusion in interpreting this section. We suggest that the limitation in subsection 7(2) which prohibits one municipality from providing full police service to another municipality should be removed.

The development of the code of conduct: Conduct and ethics in policing are an important issue. This committee will hear the communities' concerns and need for assurance that the exemplary conduct of our police officers continues. We believe in full and unconditional accountability to our community. The need to develop a realistic and contemporary code of conduct is vital to the integrity of policing. Police chiefs play a pivotal role in the administration of the code of conduct and want to be involved in its development.

The streamlining of the discipline and complaint processes is a step forward. We are mindful of the public's need for assurance that proper action is taken on complaints, and our officers' concern that they be dealt with fairly. In our submission to the police summit we emphasized that the power of the police to fulfil their function and duties is dependent on public approval of their existence, actions and behaviour and on their ability to secure and maintain public trust.

With respect to the special investigations unit, we restate our position that we need a workable protocol and hope that progress can be achieved by building on the work done in the past. We believe for any new protocol

to be successful, a foundation needs to be laid in the act.

Continued confusion exists as to the definition of "serious injuries," the responsibility of a subject police officer to provide a statement to unit investigators, and the role of the director in commencing criminal prosecutions. These are serious concerns which require reconciliation.

The Police Services Act requires the government to operate the Ontario Police College. The college provides recruit training. We are constantly reminded of the fiscal situation; however, we take this opportunity to remind you that the current intake for recruit constables cannot meet the needs of our communities. If funding is not available, alternative delivery methods for recruit training will be required.

The bill does not deal with a number of issues related to auxiliary policing, part-time police personnel, and prisoner transportation. We hope they will be addressed in the future.

The proposals to give the municipality the balance of power on police services boards is a disappointment to our members. We recognize the politics involved, and while we are grateful that boards remain, we are concerned that this decision will lead to greater political interference in the day-to-day operation of police services. Historically, Canadians have enjoyed the knowledge that the power given to their peace officers is used impartially, without bias and without political interference.

We have provided the committee members with copies of our submission and also our submission to the summit.

The changes brought about by this legislation create new duties and responsibilities for police leaders and police personnel. Transition training will be required and we urge the government to provide the training at the earliest opportunity. There is a serious concern about crime within the community. Each of you must hear this concern from your constituents and your local police leaders. The Police Services Act must be a catalyst to success in preserving life and property in our community. We ask you to consider our recommendations favourably.

**The Chair:** Thank you, Chief. Mr Tilson, we only have one minute per caucus.

**Mr Tilson:** A number of delegations have come to us and talked about the independence of the investigation of complaints, that chiefs of police in particular are not — I don't want to use the word "competent," but certainly not independent enough to make investigations. Do you agree with those allegations or those comments?

**Mr McCagherty:** In response, may I say that we take very seriously our responsibility to the community and we take very seriously our responsibility to the citizen who complains. I believe you're correct. There are times when it may be said that we're not trusted by individuals, but we work very, very hard to ensure that complaints are dealt with promptly and fairly to the citizen and to the officer.

**Mr Tilson:** It's not a new concept, of course. The medical profession and the legal profession investigate their own and are very hard on their own, particularly the discipline committee of the law society. I tell you, if you cross those people, you're in big trouble, and I would suspect that if you cross the chief of police you're in big trouble.

**Mr McCagherty:** That can be said.

**Mr Bruce Crozier (Essex South):** Good morning. I was looking through the recommendations you referred to, and since you didn't cover this point, I wanted the opportunity for you to do that. There is a proposed amendment that: "Any member of the public may make a complaint under this part" — that's subsection 56(1) of the act — "about the policies of or services provided by a police force or about the conduct of a police officer while in the performance or purported performance of his or her duties." Does that mean that someone who is an off-duty police officer working with the police chief's permission at another venue would not be able to be complained against?

**Mr McCagherty:** We believe that a complaint about the police officer should be with respect to their performance as a police officer.

**Mr Crozier:** During on-duty hours?

**Mr McCagherty:** The distinction being that if it's a personal issue, if it's a neighbour dispute, if it's a domestic dispute, if it's a civil matter, a complainant could not use the fact that the person is a police officer to invoke another investigative mechanism as a remedy. If it does involve their conduct as a police officer, then that's the position we would take, that it should be investigated, but if it's an event that anyone else in the walk of life could have, we take the position that they ought not to be subject to a separate investigation.

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**Mr Crozier:** Would an example of that be — I'm trying to recall — I think it was an OPP officer who was dismissed because of a domestic matter, wife battering, I think.

**Mr McCagherty:** I'm sorry. I'm not familiar with the case to which you refer.

**Mr Crozier:** I just wondered whether that would be an example, but I guess it would be, if it's a domestic matter. You're saying it couldn't affect his employment as a police officer.

**The Chair:** Thank you. We have to move on now. Mr Christopherson?

**Mr David Christopherson (Hamilton Centre):** Hi, Chiefs. It's good to see you all again. There's only one minute, so I don't have time to comment on a lot of the issues you raised, but I want to ask you to expand on what I consider to be an extremely powerful statement and one that should make an awful lot of Ontarians stand up and take note. When you're talking about the new makeup of the police services board, you make the statement, "we are concerned that this decision will lead to greater political interference in the day-to-day operation of police services."

That is a very dramatic thing to say. I agree with it, which is why we never supported the concept of shifting the balance of power away. Could you expand a little on why and how this could show itself in communities across Ontario?

**Mr McCagherty:** First, as I said, we recognize the way things are, but we are hopeful, with the balance of power resting with the municipality, that the priority of the police services board remains a commitment to public safety and not establishing priorities according to municipal budget priorities; that we continue to have

police services that are rigorously involved in protecting the community and not preoccupied with addressing fiscal issues.

**Mr Christopherson:** Is it fair to say, though, that that's a real concern in some communities, where that shift in power may indeed have policing be lower on the priority list than it otherwise would be under the current system?

**Mr McCagherty:** Our concern is there, but we're hopeful that doesn't happen.

**The Chair:** Chiefs, thank you very much for assisting us in our deliberations.

#### SUBCOMMITTEE REPORT

**The Chair:** Members of the committee, as I mentioned, you've had an opportunity to review the subcommittee report now in regard to Bill 84, and I would ask for a motion adopting the subcommittee report dated Monday, March 17, 1997.

**Mr Gary L. Leadston (Kitchener-Wilmot):** So moved.

**The Chair:** Is there any discussion regarding this?

**Mr Kormos:** Yes, Chair. I spoke with you informally about this yesterday. Bill 84, as you know, has significance across the province. There is some travel, but because of time constraints, among other things, not as much travel across the province as many would prefer. I'm requesting that the Toronto hearing dates of April 7 and April 8 be conducted here in room 151 so that people can access them via legislative broadcast. I appreciate that you told me that wasn't within your domain, that it is a matter for House leaders, but I'm asking the committee's recommendation, and I'll be moving an amendment to the subcommittee report to that effect so that the Chair would be empowered to request that of the three House leaders.

**The Chair:** Move your amendment.

**Mr Kormos:** I just did, an amendment to that effect, to wit: that the April 7 and April 8 hearings be held in room 151.

**The Chair:** A motion has been made to amend the subcommittee report of Monday, March 17. It does not say that you're authorizing me to request this of the leaders. You do it as an affirmative motion, and I don't believe this committee has the power to do that. All we can do is request it. If you would amend it, I think it would be more proper, but that's up to you.

**Mr Kormos:** Clearly, the Chair indicated to me yesterday that the Chair didn't have the power to unilaterally determine that.

**The Chair:** I understand that's up to the House leaders, yes.

**Mr Kormos:** I'm requesting that the committee indicate that as a desire, and that's the effect of the amendment.

**Mr Carr:** Mr Chair, what was your point again? I missed it. I apologize.

**The Chair:** We're not in charge of the scheduling of rooms.

**Mr Carr:** So you want to amend it to —

**The Chair:** I didn't want to do anything, no. Mr Kormos has moved an amendment to the subcommittee



report in which this committee requests of the House leaders that they consider having the two meetings, April 7 and 8, scheduled for this room.

**Mr Carr:** I have no problem with that.

**The Chair:** Is there any further discussion with regard to the amendment? If not, all those in favour? The amendment carries.

We now have a motion of Mr Leadston for the committee report to be adopted, as amended. All those in favour? Carried.

#### OLIVIA CHOW

**The Chair:** We can then move on to the next matter of business: Olivia Chow. Ms Chow is a Metro councillor. I take it you are here on your council's behalf.

**Ms Olivia Chow:** Metro council has not discussed this matter yet. The Metro police services board, however, has discussed it, and I believe they're coming to you with some recommendations, but I'll leave that for the chair of the police services board, Maureen Prinsloo, to talk about that. I'll speak as an individual Metro councillor.

**The Chair:** You have 15 minutes, including time for questions, so please proceed.

**Ms Chow:** Thank you this morning for having this hearing.

I just want you to picture this situation, maybe the honourable member Ed Doyle, for example. Imagine yourself in this situation. I don't know you, but I just want you to imagine this situation. You're driving home one night, maybe after dinner, after the theatre or something, you and your partner, your wife, and maybe your grandson or your son, you're driving along and you forgot to put on your seatbelt. You got stopped, and for some reason there is a bit of an argument, and hard to believe, but you got roughed up a bit and you got some bruises, maybe even your neck got twisted a little bit and you've got a neck brace. You went to the hospital and there is nothing wrong, but you got roughed up a bit.

You decide: "This is not quite fair. I haven't done anything wrong other than not putting my seatbelt on. I don't deserve this kind of treatment from police. This shouldn't happen. This doesn't happen often. Surely the police need to at least apologize." You decide that under this new rule now you'll go to the police station and file a complaint. You're a bit apprehensive, given what just happened to you, and you still have your neck brace, but you say: "All right. I'll go there, however, because I trust them. I'll go to the police station and I'll file a complaint and see what happens."

You wait for a while and you finally get your complaint filed, and then you don't hear for a long time. The chief then makes a decision, does the investigation and says, "Actually, no action is warranted, because we don't think our police officer has done anything wrong." You say, "Wait a minute, that can't be true, because I know what happened to me." You say, "Okay, there has to be a civilian body somewhere." You go to the police complaints commission or some civilian body you know is out there. You go there and say: "I want to file a complaint. Can you please investigate? At the bare minimum, I should get an apology of some kind."

The police complaints commission right now, under this new law that is passed, has to go back to the police chief and say, "Can you look at this again?" It doesn't have the power to investigate. It can't investigate.

You say: "Well, if you can't investigate, the chief just said no action is warranted. If you go back to the chief and ask him to look at it, the chief is going to come back to the police complaints commission saying, 'I'm sorry, we don't really believe there is any action that should be warranted.'" Even if the complaints commission, let's call it the PCC, says, "We believe your story, we believe there should be a hearing, we believe you are right, that you shouldn't be roughed up like that" — you go and they say: "We should have a hearing. There should be an impartial hearing, an independent hearing, an independent review." They say, "All right, let's have that," but guess what? Under this new bill, you can't. If the chief said that there is no hearing, even if the PCC is on your side, sorry, you can't have a hearing, so you can't really have that kind of justice.

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Then you say: "Wait a minute. Why don't I go to the police services board?" I hope I'm wrong, but let's talk about that. That's my reading of the bill. You say, "Why don't we go to the police services board?" because you find out the chief has ruled many cases saying that no action should be warranted. You say, "The police services board probably should review this chief; maybe there's something wrong," except the police services board now has to send the case back to the PCC, and the PCC then will have to ask another police services board to look at it. The police services board will get a response from another police department. The other police department is not going to contradict the police chief.

At the end of the day you wouldn't really get much justice, because what the PCC can do, even if they investigate, they cannot have a hearing if the police chiefs say so. They could send it to another police department, but they still cannot have a hearing, they still cannot have a review. At the end of the day, I believe this is clearly a mockery of democracy.

I'm familiar with the OMB, not that I've ever gone there. I know in zoning if you don't believe in something, you can go to the court and you can challenge, you can go to the OMB, whereas in this case you really don't have an impartial hearing.

There's a much better scenario. If you're in that situation, imagine this new scenario. You can go to a separate agency, a police complaints commission, rather than walking into the police station. You can ask a third party, because you still have your neck brace maybe, and you can say: "Why don't I get my colleague or a friend to go? I don't have to go myself. I would definitely be investigated, they would get the statement from me, but perhaps I don't have to go myself." A better scenario is you allow a third party to go for you, that you don't have to go into the police station. Perhaps you can just go to the PCC directly and the PCC can investigate and direct the chief to take action. That I believe is the ideal scenario.

Let me tell you that the case I give you as an example is actually real. In April 1990, a 60-year-old man and his

wife and three-year-old grandson were driving home after dinner and got stopped for a seatbelt violation. He went to hospital after that, got several bruises and a swollen testicle and went home with a neck brace. This fellow then filed a complaint to the police complaints commission. It was referred to the Toronto police in a normal fashion for initial investigation, and then the chief said, "No action warranted." That's what the chief said.

The PCC then said: "Wait a minute. We don't quite believe that. Let's have a hearing. We want to review it." In December 1992 to January 1993 there were hearings and they found the constable guilty of unnecessary violence and unlawful arrest and demoted him for one year. At the end of the day, this gentleman got a very large settlement paid out by the police force.

All of that probably would not happen because the chief would have said, "There is no action warranted," as in this case the chief said there was no action warranted, and the PCC would not be able to call a hearing. Fundamentally, at the end of the day, a review which is not independent is not a review, a hearing that is not impartial is not a hearing, and in a democracy everyone should have a right to a review, everyone should have a right to an impartial hearing.

That's for the less serious case. The more serious case in terms of the SIU, the special investigations unit, you need to somehow make sure that the officers must cooperate. The Police Services Act now says that the police must cooperate with the SIU. However, in case after case — in the recent shooting, for example, of Edmond Yu — the officers still have not been interviewed by the SIU. You need to fix that a little bit just to make sure the Police Services Act, which is what you have now, is very clear that the officers must cooperate with the SIU.

Those are two areas where I believe you must make some amendments. If not, the bill probably should be called the civilian subservience to the police bill or the police oversight of police bill, because certainly it is not civilian oversight of police.

**Mr Crozier:** Good morning. As a Metro councillor, what do you think of the bill in the instance where the local municipality can now appoint or will have a majority of the members of the board?

**Ms Chow:** I believe that's long overdue because, to use the case in Metro Toronto for example, we pay 90% of the police bill and we have three members out of seven, which means it could happen that Metro council really has no direct — it has some say over the police but it's not a majority. I would prefer the one extra appointment would be a councillor. In your bill I think it says that it could be either a councillor or a civilian. It's not the most important part of the bill. Having a majority makes sense given that the present council, in Metro anyway, pays for most of the bill, 90% of the funding.

**Mr Crozier:** It may not be in some people's view the most important part of the bill, I agree. We're dealing to a great extent with the complaints portion of the bill. It was just that since you are a Metro councillor and since others have appeared before the committee yesterday and today saying that the local majority will politicize the police services board, I merely wanted your point of view on that issue.

**Ms Chow:** I actually think that we should take it one step further and make it a standing committee of the local council.

**Mr Kormos:** Ms Chow, please, on the issue of third-party complaints, because what will be subsection 57(1) of the amended act prohibits third-party complaints, it says, "A complaint may be made by a member of the public only if the complainant was directly affected by the policy, service or conduct that is the subject of the complaint." Some of the Tory committee members don't understand the impact of that piece of the bill and how it restricts section 56. But I'm going to work on that over the course of the next couple of weeks and will educate them. How important is it, in your view, to have third-party complaints, which are currently being restricted?

**Ms Chow:** Let me give you two examples. If you've just been roughed up, you're scared. You have to go back into the police station, and you have to do it yourself. That's really difficult, especially in cases of sexual assault. I know of two instances. One is Robin Garner Voss and the second case is Fiona Stewart. Both of these two young females were sexually assaulted by the police. Fortunately, they both got justice at the end, but both of them at the end of the day committed suicide because they just couldn't handle the anguish and the procedure. So it's really important to have a third party, especially someone who can support you — it could be a counsellor in the case of sexual assault or it could be your friend, your partner — to go with you or for you, at least at the beginning part. That's really important.

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The second thing that's really important is walking into a police station itself. It used to be that you could go to the PCC. Now you have to go to the police station. That's hard. It's very difficult.

**Mr Carr:** Thank you very much, Olivia. I appreciate your coming in and giving the presentation. I know your time is valuable.

Just to correct you on that, you do not have to go to the police station to do it. I'll give you an example of what can happen with a third party. We had a lady in earlier from the 519 Church Street Community Centre, and if she was counselling somebody and they came to her with any range of complaints, she could advise them, counsel them, as a third party and in fact could send a fax to OCCPS, which is the new civilian commission, to register a complaint. You do not have to go in. The complainant would have to sign it, but, unlike now where it has to be done on a certain form, it can be simply a letter. A written letter explaining what happened will trigger an investigation. If there are situations of a language barrier, for example, somebody in that community could assist them, any third party, and there are a number of groups out there and we've had some of them appear.

Under that system where you could go to somebody like the group that appeared, the 519, where they could assist somebody and then fax OCCPS to trigger it, what is wrong with that system? Why wouldn't that system work?

**Ms Chow:** Right now, even if that occurs, wouldn't the file still go back to the chief?



**Mr Carr:** But it's triggered through OCCPS. The file goes back to —

**Ms Chow:** OCCPS? How would I, as an ordinary citizen, know to get someone to go to OCCPS?

**Mr Carr:** The same as you would with the police commission. How would you know to go to the complaints? You've got one commission now. I thought it was very confusing before, because we had all these different oversight bodies. I didn't understand it, and I was actively involved. Now we've got one commission that you go to and if an average person —

**Ms Chow:** So let's say my partner got roughed up. I can actually walk into the new commission and I could say that I need to file a complaint on behalf of so-and-so.

**Mr Carr:** It's actually easier. You don't need to go through forms, which you do now; you can write a letter just outlining —

**Mr Kormos:** Answer the question —

**Mr Carr:** I thought she was asking me the question.

**Ms Chow:** I could do that? If that is the case —

**Mr Carr:** Yes, that's my understanding.

*Interjection.*

**The Chair:** Thank you for your assistance, Mr Kormos.

**Ms Chow:** Anyway, I'll leave it for — the act doesn't say that. I don't know the interpretation.

**Mr Carr:** I'm giving the clarification now. That's what it is, Peter.

**Ms Chow:** Mr Chairman, I actually just read the bill. I'm not a lawyer, so I'll leave it for your lawyers to make the interpretation.

**The Chair:** We understand that, Ms Chow.

**Ms Chow:** Let me tell you, though —

**The Chair:** Your time is also up, Ms Chow. So I thank you very much —

**Ms Chow:** Okay, but the reading of it says you can't.

**The Chair:** — for taking the trouble to assist us here today.

Mr Crozier had a question.

**Mr Crozier:** We seem to be debating this, and I think we could save ourselves a lot of time. We have, I assume, experts here who can at least give us their opinion of whether a third party can do that or whether they can't. I'd just like to get it clarified somewhere.

**Mr Carr:** If I could help with the clarification —

**Mr Crozier:** No, I'd like to hear someone who drafted the bill who has a legal —

**Mr Carr:** We'll do that, but when we do both. We will get that. But what it is is that the third party cannot file but they can assist somebody in filing. All you need to do is simply write out a letter of what happens and you don't even need to go to the police station. It can be faxed to OCCPS. You can have somebody counselling and assisting, whether it be a doctor or any individual, so that it goes —

**Mr Kormos:** But that's not a third-party complaint.

**Mr Carr:** That's my understanding. If you want it clarified — but that's how it works. Frankly, I think that is what people expect.

**The Chair:** If we want to get into that, we can do so after 11:45, our last presenter. It does raise a few questions and we seem to be at cross-efforts on it.

## DURHAM REGIONAL POLICE ASSOCIATION

**The Chair:** The next presenter is the Durham Regional Police Association, Mr Brian Curtis, president. Welcome, Mr Curtis.

**Mr Brian Curtis:** Thank you and good morning. I am a sergeant with the Durham Regional Police service. Presently I serve as president of the Durham Regional Police Association, representing 553 uniformed and 149 civilian personnel. Assisting me today during this presentation are two members of the Police Association of Ontario whom I believe you have met, but I will reintroduce them: the president of the Police Association of Ontario, Mr John Moor; and a member of the board of directors, Mr John Miller.

The Police Association of Ontario and other police association colleagues have previously made representations to this committee with regard to the proposed changes to the Police Services Act contained in Bill 105. As it presently stands, Bill 105 will lower the standards of policing in Ontario by removing many of the legal safeguards presently in place in the Police Services Act.

No doubt many areas of concern will be addressed during your hearings with regard to these proposed changes. I'd like to take this opportunity today to address a specific area, that being the municipal control of police services.

The members of the Durham Regional Police Association are particularly concerned with the effects of these changes in the area of adequacy and the issue of unsatisfactory work performance.

Under section 31 of the present Police Services Act, it is the responsibility of the police services board and its members to provide an adequate and effective police service. This is done at arm's length from the local municipality to ensure a fair and equitable service provision that guarantees a safe environment for the police and the general public with limited political interference.

Article 18 of Bill 105 effectively alters the composition of the police services board by reducing the number of members appointed by the Lieutenant Governor in Council and gives the balance of power to the municipalities. That is, a provincial appointee to the police services board will be replaced by "a person appointed by resolution of the council, who is neither a member of council nor an employee of the district, regional or metropolitan municipality." It remains to be seen whether the allegiance of a municipal appointee will reflect that of community commitment to policing or that of financial positions adopted by the local council.

Local councils are driven by financial responsibilities and, as such, may reflect a greater responsibility towards the public purse at the expense of the protection of the public itself. Policing could effectively become just another financially driven service at the cost of public safety.

An example of this occurred recently in Durham region, and we experienced it personally. It was proposed by regional council that the 1997 budget be reduced by \$4.2 million. As approximately 90% of the budget

reflects salaries and benefits and the remaining 10% is actual operational costs, this reduction could only be met by a reduction of approximately 100 members of the 750-member service. This would have represented an unprecedented reduction in staffing and policing services for the municipality of Durham. Fortunately, this did not happen and the budget was eventually approved by local council. However, it is to be noted that the approval rate was a margin of 16 to 12, with five people absent. This example clearly demonstrates the rationale and thinking of local council when it comes to providing policing.

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The Durham Regional Police Association would recommend that in order to ensure police and public safety is maintained, the current structure of the police services boards remains in place. However, if you support the proposed changes in the amendments of Bill 105, there must be further amendments to the act and prescribed regulations to prevent abuse.

The Durham Regional Police Association in conjunction with the Police Association of Ontario could conditionally support the amendments to the budgeting section of the act contained in section 39. Let me explain. As it currently stands, there is little chance, in our opinion, that a police services board will request a hearing before the Ontario Civilian Commission on Police Services if they feel the budget is inadequate. It is for this reason we strongly recommend that the commission should have the discretion to hold a budget hearing at their own motion or at the chief's request or at the respective association's request. Also, to prevent any drastic cuts to service provision prior to the hearing, the previous year's budget should be used.

The Durham Regional Police Association would further submit to you that in order to strengthen the safeguards and to protect the integrity of policing in our communities, police associations should be added to section 25 of the Police Services Act. This would give associations the ability to request an investigation by the Ontario Civilian Commission on Police Services into the respective police service. If the board and/or the council are not properly funding the police service to the point where policing needs are not being met, then they are not likely to make a request of the commission.

These recommended amendments to sections 39 and 25 of the Police Services Act would provide a fail-safe mechanism to prevent any reduction of adequate and effective policing while the process is being reviewed.

The Durham Regional Police Association would also request, as you may have already heard from some of our colleagues previously, that section 75 of the proposed amendments be deleted in its entirety. We have no idea where this provision came from, but we have many fears as to what it means and how it will be interpreted by municipally controlled police services boards and chiefs of police.

This provision could result in the removal of the discretionary powers of police officers in that work performance might be translated into a quota-system method of evaluating an officer's performance. This is a very scary concept indeed as fairness and discretion of police officers could be eliminated. There would no

longer be officers involved in crime prevention. Officers would no longer be involved in community policing. Officers would no longer assist victims of crime. Officers would no longer be apprehending criminals. Officers would no longer be representative of the communities they serve. They would simply be instruments of the municipality to generate income on a quota system. If an officer failed to do so, failed to conform to the quota of their service, they would be disciplined. Does this not contradict section 1 of the Police Services Act and its declaration of the principles of policing?

There is no need for article 75 in the amendments. Officers have been regularly disciplined under the code of offences for performance issues. A provision of this nature is simply a recipe for abuse.

In conclusion, I would like to take this opportunity to summarize the items discussed in this presentation. In reviewing, if the composition of the police services boards is to be changed, there should be a further amendment to section 39 of the Police Services Act. That amendment should reflect the inclusion of police associations to be allowed to request a budget hearing by the Ontario Civilian Commission on Police Services and that during the interim the present budget be maintained until a finding is made.

Secondly, to strengthen the safeguards and protect the integrity of policing in our communities, section 25 of the Police Services Act should be amended to allow associations the opportunity to request an investigation into the respective police service by the commission.

Finally, section 75 of Bill 105 should be removed entirely as there are more than sufficient measures already in place to discipline members, and any traverse down this road could lead to police services becoming just another financially driven service at the cost of public safety.

We are police officers and we want to continue to be police officers. We want to serve the public in an effective and efficient manner. However, the proposed changes, if implemented as they presently read, will restrict our ability to serve the citizens of Ontario, and the standard of policing in the province will be severely jeopardized.

On behalf of the Durham Regional Police Association and its members, I thank you for the opportunity of making this presentation to you today.

**The Chair:** There's only about 30 seconds per caucus. Mr Christopherson, do you have any comment?

**Mr Christopherson:** I have a quick question, if I could, Chair. Thank you very much for your presentation. Under section 75, were you aware that a clause like this was being contemplated? Were you aware at this police summit that there was some concern that chiefs or boards or commissions didn't have enough strength in terms of their control over officers? Did this come as a surprise to you? Were you ready for it? Quite frankly, I find it surprising that it's in here myself.

**Mr Curtis:** I'll be quite honest. I was quite surprised. I've just been notified of it with the presentation. I'll refer the question to John Moor because he was in attendance during the summit.

**Mr John Moor:** With regard to it, there was no discussion of unsatisfactory work performance during the



summit, that this needed including in the act or the provisions. We felt that the code-of-conduct sections of the act already dealt with just about every type of conduct that somebody could find offensive that police officers could do. Certainly, work performance was in there and neglect of duty, so to put a basket clause like we see in there now came as a complete shock and utterly dismayed our organization as to why it was there and who requested it.

**Mr Tilson:** Again on section 75, can you tell us how section 75 goes beyond performance review? I assume that you have no problem with the chief of police or a commission looking at performance review.

**Mr Curtis:** The unfortunate thing, in the way I read section 75, is that there are no guidelines or definitions of what performance review is going to be; it's strictly arbitrary.

**Mr Tilson:** This section, to me, interprets a form of performance review. I assume you don't have any problem with performance review. You simply say that section 75 should be deleted. Do you have an alternative section that allows performance review?

**Mr Moor:** Yes. The employer already has that right to do performance reviews. Our problem is that once you take section 75 and grant it the status of a separate provision within the act, it's now dealing with discipline; it's not dealing with performance review. Every police officer in this province undergoes performance reviews and evaluations on a continuous basis. This deals with disciplining the officer if he's not meeting that performance review. We see that as nothing more than a ticket quota system, in which fashion it's going to be used. It's not going to be used to do our evaluations with. It's in fact a provision, a clause now in the act, that will allow for substantial discipline to be meted out.

**Mr Crozier:** I'll direct this question to Mr Moor because of his provincial affiliation. Can you give us a statistic on how many budgets have been appealed to the commission under the current legislation, as opposed to how many have been passed by local councils without going to the commission?

**Mr Moor:** I don't know the actual numbers, sir, but I know that the actual budget review requests that have been received by OCCPS are very few and far between. That was what our concern was at the summit when AMO was putting forth to the government that this seemed to be such a horrendous problem, that they didn't control the boards. As you heard yesterday, those who pay should have the say.

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Our response was: "Your boards don't seem to be appealing it to OCCPS now, which they have the right to do, so what is the problem? Why do we need the change? Where did this arise from?" We think that because police services boards, whoever appoints them, are still from the community and are representative of the community, the present system is working, that there doesn't need to be a change to give complete control. We didn't see that there was any great influx of appeals on police budgets going down to OCCPS under the present system.

**The Chair:** Gentlemen, thank you very much for your presentation.

## MARK WAINBERG

**The Chair:** Our next presentation is Mr Mark Wainberg. Good morning, Mr Wainberg. How are you this morning?

**Mr Mark Wainberg:** Fine, thanks. You have copies of my brief?

**The Chair:** Yes, we have received a copy, and I notice we've already heard from the law union group yesterday. Are you representing them?

**Mr Wainberg:** They've endorsed my brief.

**The Chair:** Fine.

**Mr Wainberg:** It was sort of an afterthought. I wrote it and thought I should check with them to see if it met with their approval, and it did.

**The Chair:** Go ahead.

**Mr Wainberg:** I'll be dealing strictly with the police complaints process. This has been a pet peeve of mine going back to 1981, when the present system first came into effect in Metropolitan Toronto. I've always had problems with the present system. In my submission, the proposed complaint system in Bill 105 is a giant step backwards.

"General Philosophy of Bill 105" is the first heading in my brief. The bill purports to combine the internal affairs system with the public complaints system. What it does, though, in effect, in reality, is to eliminate the public complaint system and fold it into the internal affairs system.

The office of the police complaints commissioner will disappear, obviously, and this will result in a significant downloading of costs of the police disciplinary system on to the municipalities. With dwindling financial resources, municipal police forces, which will now be assuming almost the entire cost of policing, will have to choose between replacement of vehicles and equipment, buying new helicopters — Metro force is buying some helicopters, I understand — maintaining the number of officers on the street or dealing with this new caseload that's being dumped on to the internal disciplinary system.

I think it's obvious where the scarce dollars are going to go. They're not going to go into the disciplinary system. As a result, the disciplinary system will be driven by the very few dollars available, and essentially it will more or less wither away as far as the public component is concerned.

Secrecy: Bill 105 will allow police chiefs to keep the complainant totally in the dark about the progress of an investigation, the results of an investigation and the reasons for the chief's decision for rejecting a complaint. Under the old legislation, there was a requirement for interim reports every 30 days and a final report after the investigation was completed. Now there is no such requirement that any report be prepared at all in the course of an investigation. There's no requirement for the chief of police to give reasons for any decision that he might make, except after a full hearing, and as I'll deal with later in the presentation, those full hearings occur in about one tenth of 1% of cases.

I've done a little statistical research. I've used the annual report of the board of inquiry under the Police Services Act and the annual report of the office of the

police complaints commissioner. Both of those are available at the government bookstore. I've been doing this since 1981, so this is old news for me.

In 1995, only 4.27% of complaints resulted in any form of disciplinary action against police officers in Ontario. That includes disciplinary proceedings at which police officers were acquitted, so in over 95% of cases there was no discipline resulting out of a public complaint.

In 1995, only two out of more than 3,400 public complaints resulted in board of inquiry hearings. In 1994, the police chiefs ordered board of inquiry hearings in only three out of approximately 3,500 cases. So the number of hearings that are ordered by police chiefs under the present system has been consistently under one tenth of 1%.

In the remaining 99.9% of cases, which is a fairly significant bulk of the cases, complainants will be entitled, under the new system, only to the following information about their complaints: whether the chief has decided to treat the complaint as one about policies of the force or a complaint about the conduct of a police officer. You're not entitled to know why he has made that decision, but you're entitled to know that he has made that decision.

Similarly, if the chief determines the complaint is frivolous or vexatious, you're entitled to know that he made the decision, but not why. If the chief makes a decision after investigation that the complaint is unsubstantiated, you're entitled to know he made that decision, but you're not entitled to know why, under this legislation. If you compare the legislation to the previous legislation, it's very clear that this omission was deliberate.

As a complainant, you're entitled to know whether the chief, after investigation, has determined that there was misconduct or unsatisfactory work performance but that it was not of a serious nature. You're entitled to know that he made that decision, but not why he made that decision. The current subsection 90(5) is set out in the brief, and it's obvious that the old legislation required reasons for these types of decisions and the proposed legislation does not.

Police investigating police: This has been a concern of mine and of many community groups since the inception of this legislation in 1981. According to a recent academic study by the University of Toronto department of criminology, written by Tammy Landau — you may be familiar with this — and from my own personal experience, it's obvious that the overwhelming number of complainants do not have confidence in police investigating police. People don't like lawyers investigating lawyers either. There is not only a perception of bias, but in my experience with police complaints, which is fairly extensive, there is an actual bias. It may be conscious, it may be unconscious, but police officers have a certain way of looking at situations.

I'll give you a recent example. There was a suspect who was shot in a TTC bus at the foot of Spadina a few weeks ago. The next day or two days later, the chief of the Toronto police said that the officer acted properly. Police have a certain way of looking at situations like

that. There was a potential situation of danger. The officer could have got off the bus and just waited. Police officers tend not to approach situations like that, and sometimes a little common sense from the civilian side of things would dictate a different approach to things. But police do have a way of dealing with situations, and if you're being investigated by a police officer, they will look at it through police eyes; they will not look at it through civilian eyes. In the real world, that makes a very significant impact on whether your complaint is successful or not.

Police investigations of public complaints are slow. They're very slow at getting statements from the officers. They're very slow at getting officers' notes. They are superficial. They tend not to go for the forensic evidence. They'll interview the witnesses, but that's about it. They go through the motions, but there's no payback for police officers within the police hierarchy for doing a superb job of investigating a complaint. They don't get the same goodies as they do for catching Paul Bernardo. The better the job they do, the less popular they'll become with their peers when they're investigating complaints.

#### 1140

Under section 88 of the existing act, the police complaints commissioner may conduct an investigation into a complaint for any reason after the 30-day period has expired. The present legislation does not allow the Ontario Civilian Commission on Police Services to do its own investigation — to interview its own witnesses, to collect its own forensic evidence — and that's obviously intentional. You cannot get your complaint investigated by a civilian under this legislation.

Appeals to the commission: An appeal to the commission after a full hearing before the chief of police — and as I've indicated, that will only occur in about one tenth of 1% of cases — is the only way a complainant can have his or her complaint adjudicated by a non-police officer. Unfortunately, in practice the appeal remedy is an illusion, because most of these cases involve credibility findings. Your credibility findings are going to be made by the chief or his designate; you're going to have the officer's conduct determined by a police officer. Once that credibility finding is made, if it's made against you, you're dead; you're never going to successfully challenge that on appeal.

The other problem with the appeal process is the cost of a transcript. Some of these hearings are very long. Police lawyers tend to raise a lot of procedural issues. I've been involved in hearings that have gone more than two weeks. Transcripts cost about \$500 a day. To get an appeal to the Civilian Commission on Police Services, if you're a complainant and you lose in front of the chief of police, you have to order the transcript and pay the transcript fee of \$500 a day or more.

I had a case recently which was very — it was a good point of law. I brought the appeal, my client couldn't afford the transcript, and he had to abandon the appeal. That's a real, serious obstacle, because even if you win these, you can't recover the cost of the transcript. There are some lawyers who are willing to do the appeals for free — I was willing to do the appeal for free — but shelling out \$2,500 or \$3,000 for a transcript is not



something that too many lawyers can do and it's something that a lot of complainants can't afford.

**Conclusion:** I can't suggest any way to fine-tune this legislation. It's a giant step backwards. It'll essentially eliminate the public complaints system and I think the government should take another look at this.

**The Vice-Chair (Mr Ron Johnson):** We will move to questions. We've got about one minute per caucus.

**Mr Tilson:** The existing system has been said to be too costly, too expensive, confusing, all kinds of other adjectives to describe it. You obviously have worked in the process and I'm sure you will agree. I would like you to comment specifically —

**Mr Wainberg:** Excuse me. I don't agree with all of it. I agree with "confusing"; I don't agree with "expensive."

**Mr Tilson:** That's fine. My question has to do with the number of deputants, including yourself, who have shown a lack of confidence in the police to deal with complaints against police, that chiefs of police will ignore proceedings, police boards will ignore complaints in favour of the police officers. I suppose that could happen from time to time, but in my view very rarely.

I would like you to comment on sections 71 and 72 — I know you've read the bill — which have to do with review of decisions by the commission, in other words, if complainants don't like the decisions of police chiefs or service boards, specifically section 72.

Let me just summarize what it says: At any time during the proceedings, any proceedings, if you don't like what a chief of police is doing or you don't like what a board's doing and you can persuade the commission, the commission can order another police force to investigate those proceedings. Do you find anything wrong with that?

**Mr Wainberg:** You can't get it investigated by a civilian, and as I indicated, police have a certain way of looking at situations; lawyers have a certain way of looking at situations. You need a fresh look at —

**Mr Tilson:** So you don't want police investigating anything.

**Mr Wainberg:** No, I don't. That's been my position from 1981 onwards.

**Mr Crozier:** We are hearing from practically every group and/or individual who comes before us the concern about the investigation and the way it's handled in this bill. In reference to what Mr Tilson said about not having police investigate police, I'm willing to assume they do a good job in most cases, but perception is reality. If the public doesn't see that police should investigate police, it really doesn't matter how good a job they do. We should do our best to enforce the public's support for the police. Would you agree or comment on that?

**Mr Wainberg:** Perception is definitely important. The complaints system, to a certain extent, is a lightning rod for public discontent. You have to have that outlet for people who are dissatisfied with the police. The centre for criminology study shows that most people do not think it is a good idea. Of complainants who were interviewed, over 77% felt that the police shouldn't be doing investigations. It's not just me. I've had several clients who have been through the process. They feel they're under attack. They feel like a rape victim in

court; they feel they've done something wrong. That's the way police tend to make complainants feel.

**Mr Kormos:** Reference has been made, not by us, about the fact that lawyers investigate lawyers and doctors investigate doctors. My impression is that the public is as sceptical of that, as often as not, as they are about police investigating police.

**Mr Wainberg:** Absolutely. I'm no big fan of lawyers investigating lawyers, either.

**Mr Kormos:** You refer to the centre for criminology study. I know that Ericson has written a lot over at the U of T about the culture of policing, the sociology of policing. Is there research and are there studies which support your argument and the argument that others have made that civilian oversight is preferable to police investigating police?

**Mr Wainberg:** All the studies that were done in the 1970s — Maloney and Morand — recommended a much higher degree of civilian involvement in the process than this bill proposes. I don't think this bill, this approach can be justified by any academic study. I think it's purely a political decision.

**Mr Kormos:** So this very much appears to fly in the face of all the knowledge that's been acquired.

**Mr Wainberg:** Oh, for sure.

**Mr Kormos:** I wonder what prompted —

**The Vice-Chair:** Mr Kormos, I'm sorry, your —

**Mr Kormos:** I just asked him, I wonder what prompts this legislation.

**The Vice-Chair:** I'm sorry. Time has expired. Mr Wainberg, on behalf of the committee, I want to thank you very much for your presentation.

#### METROPOLITAN TORONTO POLICE ASSOCIATION

**The Vice-Chair:** The next presenter is the Metro Toronto Police Association. Good morning, gentlemen. You'll have 15 minutes for your presentation.

**Mr Paul Walter:** Good morning. My name is Paul Walter. I'm president of the Metropolitan Toronto Police Association. To my far right is director Al Olsen, who is also a police officer, with 24 years' experience. To my immediate right is retired detective sergeant George Jackson. George was a member of the public complaints bureau. His knowledge in terms of public complaints and the legislation, I dare say, is on a par with any other person in this province. He, in our view, is considered an expert in the field. He is also employed by the police association to assist our members when confronted with certain situations that require his advice and assistance.

I've sort of limited my response. I've cut it down from about an hour, which is my usual time, to about 14 minutes. If the committee desires, I'll be available for your April dates to answer any questions with regard to the submissions I'm putting forward. I believe the submissions have been circulated, and I'll get on with my deputation.

The Metropolitan Toronto Police Association represents approximately 5,000 uniformed police personnel, up to and including the rank of staff sergeant, and 2,200 civilian members. It is the largest police association in Canada. We, along with the Metropolitan Toronto Police

Service, have the most experience in Ontario in the operation of a civilian oversight program.

The Metropolitan Toronto Police Association and the members we represent have very serious concerns with respect to many aspects of Bill 105. However, with the limited amount of time I have to speak before you, I will confine my remarks to how Bill 105 will eradicate the legal rights of police officers in the discipline process and ultimately destroy the morale of police officers in this province.

1150

Appended to the handouts — it still hasn't been thoroughly edited — there's a two-page president's message. We put out a monthly magazine called *News and Views*, and the areas of concern that we're conveying to our members other than what I'm going to speak about, and including what I'm speaking about, are contained in this president's message. At your leisure, if you want to read that, it will give you a little further insight into our concerns and our members' concerns.

Much effort has been expended over the past year to identify improvements to the Police Services Act. At the policing summit last June, the major stakeholders reached consensus on a number of important amendments, many of which do not appear in Bill 105. In October 1996, the Solicitor General and the Attorney General commissioned Rod McLeod to review the oversight system and advise how it could be made more efficient. This resulted in an 85-page report which is entitled *A Report and Recommendations on Amendments to the Police Services Act Respecting Civilian Oversight of Police*, which was released in December 1996. Many of Mr McLeod's positive recommendations also do not appear in Bill 105.

In the 1970s a number of studies were conducted on police oversight. There was the 1975 report by Arthur Maloney QC and a 1976 royal commission by the Honourable Mr Justice Donald R. Morand. Mr Walter Pitman authored a report in 1977, and in 1979 Gerald Emmett Cardinal Carter, archbishop of Toronto, released his report.

The most thoroughly researched document was the 1975 Arthur Maloney report, and it's entitled the *Metropolitan Toronto Review of the Citizen-Police Complaint Procedure*. Subject to some minor editorial revisions, the recommendations in the Maloney report are as relevant today as they were 20 years ago. It is, and consistently has been, the position of the Metropolitan Toronto Police Association that the Maloney report's recommendations must be taken in their entirety. To adopt some of the recommendations and not others would be a result that no one would have respect for.

The recommendations for changes to the present discipline and rights provisions of the Police Services Act ignore most of Maloney's recommendations. Therefore, in our opinion, Bill 105 fails the oversight process and is unacceptable to the members of the Metropolitan Toronto Police Association.

I would like to read Arthur Maloney's comments found at page 207 of his report. This report was not an overnighter; it took nearly a year to complete and involved police forces throughout the world as far as the complaints process is concerned. Maloney, at page 207, said:

"What I had in mind as I formulated my recommendations was that the public feel satisfied that the complaints of citizens were openly, fairly, and effectively dealt with and that the police officer should be satisfied that he too was being dealt with fairly. Also, I was also determined that the police officer should not feel constrained in the performance of his duties in matters of violations of the law or in a potentially dangerous encounter with some suspect for fear that he would be second-guessed later in the complaint department."

In 1981, Maloney's principles were incorporated into the first citizens' complaint act in Ontario, known as the Metropolitan Police Force Complaints Project Act, which in 1983 became the Metropolitan Toronto Police Force Complaints Act. This was the only police complaint act in Ontario until 1991, when the complaint section was introduced into the Police Services Act.

The principles in the Maloney report were the backbone of the Metropolitan Toronto Police Force Complaints Project Act. The Honourable Roy McMurtry, now Chief Justice, and the Honourable Sidney Linden, now Chief Judge — and, by the way, he was the first complaints commissioner in Ontario — were the government representatives responsible for the introduction of the complaints project act. I might say I worked with both gentlemen, along with many others, on having this act brought into being.

During the development of the complaints project act, it was recognized that there was a need to have a bill of rights for police officers of Metropolitan Toronto. This bill of rights was appended to the collective agreement between the Metropolitan Toronto Police Association and the police services board. In the back of the handout material, you'll see a two-page document which contains the police officers' bill of rights as agreed to between the parties.

There are some very significant issues and topics within that bill of rights that provided the safeguards and normal protections for due process for police officers. This was taken into consideration when formulating sections of the police complaints project act and the force regulations on citizen complaints. The bill of rights was respected by the public complaints commissioner's office and his investigators when they conducted their own independent investigations and reviews. I have attached, as I said, a copy of this bill of rights to the brief.

Changes were made to the 1991 act that started the deterioration of the Maloney principles. These amendments effectively decreased police officers' rights and protections. In the past few years we have seen even more deterioration in these excellent principles. Many of Maloney's concerns have surfaced, in particular the second-guessing of officers' decisions and unfair actions and abuse of the process that have prejudiced police officers.

Rod McLeod recognized this at page 2 in his report. I would like to read his comments. This is the report from Rod McLeod that is dated November 21, 1996. In it, he says:

"Civilian oversight at the provincial and local levels should not be the cause of FIDO (Forget It, Drive On)." Some of our personnel have a different interpretation of



FIDO. "People in positions of authority in the cycle of oversight should have the respect and confidence of the whole public, including police officers and minority communities. The overseers should recognize the difficulties and dangers of police work and be champions of and advocates for good policing and the thousands of excellent people we have serving as police officers today." I certainly subscribe to those comments wholeheartedly.

I will now discuss how Bill 105 will produce the final and fatal blow to the Maloney principles of openness and fairness in the complaints process.

This principle was achieved in the original act by the provision of interim reports to the complainant, the subject officer and the public complaints commissioner. These reports were issued every 30 days and gave a continuous update on the investigation. On completion of the investigation, a final report was issued which gave a synopsis of all statements, pertinent laws and a description and analysis of any physical evidence obtained.

The investigations were monitored by the investigators of the Ontario public complaints commissioner's office. Concerns by the PCC on the direction of the investigation were discussed with the investigators of the police force and necessary action was taken to remove these concerns.

Part VI of the current Police Services Act continues this practice. However, Bill 105 contains no such requirement for reports to be produced. The bill simply states that the chief, at the conclusion of the investigation and on review of the report submitted to him or her — if any — will decide if there was misconduct. So there is no requirement for a report to be submitted.

The requirement for openness also helps to ensure fairness. To eliminate the need to produce reports removes the checks and balances on the fairness of the investigation. In effect, it is making the police investigation a more secret process.

A need for openness can be demonstrated by two recent high-profile investigations into alleged misconduct by police officers, boards of inquiry stemming from complaints made by Mrs Audrey Smith and by Mr Dwight Drummond. The mandated reports enabled examination of the investigations and decision-making processes that were applied in these cases. These reports revealed flagrant abuses and unfair treatment of the police officers. Without the requirement for these reports, evidence would have been withheld or would not have been disclosed, thereby seriously prejudicing the ability of the police officers to provide an adequate defence.

Other investigation reports have revealed contraventions of the Police Services Act by police management, which resulted in stays of the proceedings against the police officers. The mandated requirement to provide regular reports did not prevent management from committing abuses, but it allowed those abuses to be discovered. The members of the Metropolitan Toronto Police Association are deeply concerned that the elimination of this requirement in Bill 105 will remove any management accountability on how they conduct their investigations.

The removal of the reporting requirements, along with the new powers given to the chief of police to discipline officers in the area of non-serious allegations, where no

trial is held, will totally destroy Mr Maloney's recommendation that "the complaints of citizens were openly, fairly and effectively dealt with and that the police officer should be satisfied that he too was being dealt with fairly."

Another Maloney principle was that the discipline process must also be fair to police officers. However, under Bill 105, the concept of fairness is eliminated. The chief, or any one of his 50 or so designates in Metropolitan Toronto, will be given power to impose upon a police officer accused of non-serious misconduct a penalty of up to five days' pay or 40 hours' pay. That amounts to more than \$1,000 on a say-so, without a report and without the officer having recourse other than through a process of arbitration, which I'll get into. This doesn't permit a police officer to forfeit five days' work or lieu time as built up. This penalty not only penalizes the police officer; it also penalizes his family by taking up to \$1,000 from his paycheck.

The officer has no election of a trial, as is provided for under the current act. The only remedy, as you know, is to apply for the grievance procedure. However, the penalty will have already been imposed and the matter will be recorded in the officer's employment record, notwithstanding that the officer has grieved the issue. The arbitration process may take upwards of two years to conclude, at a cost of thousands of dollars.

I know there was comment made here by some of the administrative staff about section 50 of the Labour Relations Act applying. We have great concerns that police officers' employment terms will be viewed on that level, but if they are, then give police officers the full rights and protections of the Labour Relations Act, because they don't have those now. Give police officers the full protections and rights of the Employment Standards Act, because they don't have those now. Give police officers the full rights of the Health and Safety Act, through which they only have very little protection. Do that now as well. You can't have all of the pie without spreading it equitably among all our members.

A recent case in Metropolitan Toronto involved an officer who was alleged to have committed a misconduct. The Metropolitan Toronto Police Professional Standards Review Committee recommended that he be penalized five days. The officer refused the penalty and exercised his right under the present act for a Police Services Act trial. Although he was found guilty, after trial his penalty was a reprimand.

The Metropolitan Toronto Police Association demands that officers accused of misconduct must retain the right to due process. That's what this is all about and that's why we're here. There is no compromise on this issue.

Under Bill 105, the subject officer is not included in the ongoing status of the investigation process. However, the complainant is notified of every decision and given the right to have these decisions reviewed by the Ontario Civilian Commission on Police Services. Bill 105 only guarantees the right of appeal after conviction at trial if the officer is dismissed or required to resign, whereas the complainant can appeal any decision where the officer is acquitted at trial.

In the time allowed, I have tried to give you an overview of the history of the complaint law in Ontario.

I have shown you how, with each amendment to the act, the principles of openness and fairness to police officers have been deteriorating. Bill 105 will completely destroy these principles.

**The Vice-Chair:** Thank you, sir, for your presentation, and thank you all, on behalf of the committee, for the presentation. The allotted time has expired.

The committee will now recess until 1 o'clock this afternoon.

*The committee recessed from 1204 to 1304.*

#### BLACK ACTION DEFENCE COMMITTEE

**The Chair:** Our first presenter is the Black Action Defence Committee, Mr Dudley Laws, executive director. Welcome, Mr Laws. Please make yourself comfortable. We've provided 15 minutes, including all questions, so please proceed.

**Mr Kormos:** On a point of order, Chair: Is there a quorum, please?

**The Chair:** How many do we need for a quorum, Mr Kormos?

**Mr Kormos:** At least 50%.

**The Chair:** It seems we are short one person. We'll wait until one arrives. Oh, we now have a quorum. We have seven. Please proceed, Mr Laws.

**Mr Dudley Laws:** Thank you very much. Members of the committee, I'm the executive director of the Black Action Defence Committee and I'm going to present a brief on their behalf.

The Black Action Defence Committee is a voluntary, non-profit, community-based organization formed in 1988 out of the need for community action against racism and discrimination in the criminal justice system. It was formed particularly to advocate for police reforms and to provide support to the families of victims of abuse and deaths caused by police use of deadly force.

The demand for the services of the Black Action Defence Committee from other parts of Canada such as Quebec and Nova Scotia has made it necessary to broaden its mandate from a provincial to a national scope.

The goal of the Black Action Defence Committee is the elimination of racism because of its damaging impact on the black community and society in general. The BADC advocates for policies and practices that are geared towards the elimination of racism.

In carrying out its work, the BADC operates from a strong commitment to bring a unifying force to the black community and to be an advocate for positive change. The BADC is open to all persons of the black community regardless of age, gender, socioeconomic background, abilities and ideological perspective.

History of police abuse and police use of deadly force: For 20 years police officers in Metropolitan Toronto and other parts of Ontario and Canada have caused the deaths and injuries of the following persons: Buddy Evans, Albert Johnson, Michael Sergeant, Lester Donaldson, Michael Wade Lawson, Sophia Cook, Marlon Neal, a black youth who was unnamed, Johnathan Howell, Kenneth Allen, Royan Bagnaut, Raymond Lawrence, Ian Coley, Albert Moses, Tommy Barnett, Andrew Bramwell,

Wayne Williams, Faraz Suleman, Francis Nicholls and Edmond Yu.

This list is included in our submission to make sure that all members of the standing committee are knowledgeable of these incidents and how these shootings and abuses of power have helped to destroy the communities' confidence and trust in the police services of Ontario and Canada.

Over the years various governments of all three political parties have appointed commissions of inquiry to look into policing and into racism in the criminal justice system. The commissions have held hearings across Ontario and have made numerous recommendations to governments. These are some of the commissions: the Morand report, Royal Commission into Metropolitan Toronto Police Practices; the Marin report, Commission of Inquiry Relating to Public Complaints; Pitman report, Metro Toronto task force; Cardinal Carter's report; Report of the Race Relations and Policing Task Force, 1989; Report on Race Relations and Policing Task Force, 1992; Stephen Lewis's report; K. Liao's report on policing services; Uniform Treatment: A Community Inquiry into Policing of Disadvantaged Peoples; Report of the Commission on Systemic Racism, December 1995.

#### 1310

Most of these commissions have made recommendations in support of an independent civilian oversight of police and the establishment of an independent complaint system. In recent years we saw the establishment of the police complaints commission and the special investigations unit. These two agencies of government were meant to act as police oversight systems, although these two bodies are ineffective. In many ways, the fundamental principles on which they were formed create a sense of hopefulness.

The present bill, Bill 105, totally destroys the principles of police accountability, accessibility, fairness and impartiality.

The complaint system: At the present time a complainant may file a complaint with the local station of any police force or at the office of the police complaints commission. Bill 105 provides that the complainant can only file a complaint with the station of the police force to which the complaint relates.

Our response: The restriction on where a complaint can be filed makes the system less accessible to people who wish to complain about an officer in their local community. Furthermore, it is well known that complainants who have made complaints at police stations to police officers have been subjected to intimidation and insults and have often been asked to withdraw their complaints against police officers.

At the present time there is a requirement that the complaint be filed by the person directly affected by the policy, service or conduct in question, and the PCC will accept a complaint filed by a third party. Bill 105 requires that a complaint be made only by the person directly affected by the police policy, service or conduct in question. The chief of police will decide whether the complainant is directly affected, subject to a review by the commission upon the complainant's request.



**Response:** It is the view of the BADC that it is the duty and responsibility of all citizens of Ontario and Canada to make a complaint against any police officer who in the opinion of any citizen has acted in an improper manner in the performance of his or her duty as a police officer. The chief of police should not be given any authority to decide who makes a complaint.

This creates two problems. First, the system will be less accessible for individuals who feel disempowered to file a complaint, and secondly, it makes the system less accountable because it discourages complainants from coming forward.

**The extreme power of the chief:** Bill 105 gives the chief of police extreme power and authority to determine the validity of a complaint, whether the complaint is about policy, service or an individual officer's conduct. There is no need for the chief to get consent from the new commission although the complainant may ask the new commission to review the chief's decision.

**Response:** To increase the power of the police chief to classify complaints undermines the principles of fairness and impartiality and renders the system less accountable.

It must be noted and given serious attention and consideration that in all shootings by police officers the chiefs of police have made statements in support of the police officers involved.

**Filing a complaint:** At the present time, when the complaint is initially filed with a local police station, the PCC is entitled to receive a copy of the complaint. Bill 105 contains no requirement that the new commission will be served copies of the complaints that are filed with the local police.

**Response:** It is obvious that the commission's role to monitor complaints against police officers is made impossible if it is not even notified when complaints are filed. It therefore has no means of ensuring accountability at the local level. In the past, many complainants have expressed fear and concern about going to any police station to lay complaints. Some have said that they have been discouraged and sometimes asked not to file complaints against police officers.

**Conducting a hearing:** Unlike the current system, Bill 105 gives power to the chief of police whether or not to hold a hearing and the power to designate someone who could be a police officer to be the presenter at the hearing. There is no provision for the new commission to order or hold a hearing at first instance. The only type of hearing that the new commission can hold is hearing an appeal by the complainant and it is only on the record.

**Response:** To give the chief the monopoly as an adjudicator of complaints against actions of police misconduct is the ultimate affront to the civilian policing oversight system. It creates an inherent bias within the system in favour of police officers.

**The special investigations unit:** The SIU was created by a change to the Police Services Act. The change took effect in June 1990. The principles of the SIU are summed up in section 113.3.5 of the Police Services Act, which states that the director of the SIU may, on his own initiative, and shall at the request of the Solicitor General or Attorney General, cause investigations to be conducted into the circumstances of serious injuries and deaths that

may have resulted from criminal offences committed by police officers. Also subsection 113(9) of the Police Services Act, 1990 states as follows, "Members of the police force shall cooperate fully with the members of the unit in the conduct of investigations."

**Response:** Police officers who have caused serious injuries and deaths of several persons in the province of Ontario have refused to cooperate with the SIU. The Black Action Defence Committee will not give a legal opinion on the reasons these police officers have not cooperated or have waited many months or years to do so. We know that legal opinions will be submitted to the committee in respect of police officers' refusal to cooperate with the SIU.

It is the position of the Black Action Defence Committee that it is an affront to the law for police officers to remain silent after taking the life of a person. Many police officers are permitted by their chiefs of police to continue on duty after their refusal to speak to the SIU. These police officers still carry guns, batons, handcuffs, and have the support of the emergency task force, the support of other police officers, the support of the union, the support of the chief of police and the support of the Solicitor General, the Attorney General and the Premier of the province of Ontario. The victims of police misconduct and police use of deadly force rely only on the support of their families and their communities.

1320

**The Chair:** Excuse me, Mr Laws, you have used your allotted time. We have your recommendations and conclusions.

**Mr Laws:** Can I read my conclusions, sir?

**The Chair:** How long is it going to take you, Mr Laws?

**Mr Laws:** Another three minutes.

**Mr Kormos:** It will only take 60 seconds, Chair.

**The Chair:** No, it's going to take longer than that, Mr Laws. It makes it very difficult for us because we have a schedule of a large number of people. I would suggest if you read your recommendations, it's a lot shorter than your conclusions.

**Mr Laws:** My conclusions are very important to be heard, sir.

**The Chair:** I understand that.

**Mr Laws:** I prefer to read my conclusions.

**The Chair:** That's not the way it's played, Mr Laws. My problem is that I'm instructed to provide everyone with an allotted length of time. I don't wish to appear rude or anything, but that is the way the rules are drawn up for me. It blocks everyone off, so I'm sorry, I cannot permit you to do that, sir. I regret that and I apologize, but we are now over 15 minutes. Your time is up and we must proceed to the next person. I thank you very much, however, for attending here today. Your presentation has been most valuable. We do have your written recommendations and conclusions and I'm sure the committee will give them due consideration. Thank you very much, sir.

#### MULTIFAITH ANTIRACISM COMMITTEE OF GREATER TORONTO

**The Chair:** We may proceed to the next presentation, the Multifaith Antiracism Committee of Greater Toronto,

Al Buttnor and Michael Kerr. Welcome, gentlemen. Would you proceed, please.

**Mr Michael Kerr:** First, we would like to thank the members of the committee, the Chair — Mr Martiniuk — and others for allowing us the opportunity, as the Multi-faith Antiracism Committee of Greater Toronto, to bring some of our shared concerns before you.

We appreciate the opportunity to address Bill 105 today. I am Michael Kerr. I work with Karuna Community Services, which is the community development and social services arm of the Buddhist communities of greater Toronto. This is Rev Al Buttnor of the Church of Scientology. We represent the Multifaith Antiracism Committee, as I said, with a membership comprised of a wide variety of faith groups, including members of various Christian denominations such as the Lutheran, United and Catholic churches, several Muslim traditions, the Jewish community, Sikhs, Bahai, ourselves and others.

Bill 105 offers an opportunity to address the concerns of the community about policing and the services' accountability to the community. We are not experts in the legislative process nor are we experts on the law, nor indeed in dealing with police services generally. Consequently it is our purpose, rather than addressing specific points of the proposed legislation, to talk in general terms about what we feel is important in such legislation, particularly the complaints process, whether this relates to the actual provisions of Bill 105 or not. We also wish to keep our comments as clear and simple as we can.

The police service is an important and integral part of our society. This cannot be overstated, I think we all agree. They represent a bulwark and protection for the average citizen against those among us who would prey upon the rest through either violence or crime; the breaking of legal codes which the rest of us have agreed to live by in order to show respect for one another.

The courage that is called for by the average police officer to undertake this effort is immense, and they should be rightfully proud in upholding their duty to society and protected from unfair treatment or undue suspicion. However, part of the police duty to society is accounting for the exercise of the extraordinary powers provided to them to do their jobs.

We do have a fundamental assumption in our society that individual freedom is an important concept, that while we must weed out, possibly segregate and attempt to rehabilitate those who would violate the law, we have a long-standing tradition that an individual is innocent until proven guilty, although today with mass media as it is, it is almost that one is innocent until accused, but that is another topic. We hold to this concept of innocence because we have a desire to provide the individual the benefit of the doubt and to protect the freedoms of the many who do not transgress our community standards, to keep them free of undue restraint.

We have found that this kind of freedom is necessary to our society. As no system or individual is perfect, whether police or otherwise, a proper system of police oversight is necessary to correct, when necessary, the wrongful or incorrect use of the power that we have made available to them. Individuals, therefore, who feel

they have been wronged by police action do need to have a real and substantive remedy to their complaint. However, this also must be balanced so that police are not unduly hindered in doing their job or made to feel that they do not have the confidence of the public at large. We feel this is equally as important.

Consequently, in discussing legislation designed to renew the partnership between the province, municipalities and the police, and as the bill title suggests, "to enhance community safety," both factors must be taken into account and balanced: the needs of the police and those of the community. I'll depart from the written text here. We were struck that within the titling of the bill, I guess the thinking was being framed that "community" wasn't left out of the partnership. I think that's instructive in terms of possibly some of the thinking that brought this legislation forward.

Speaking as members of diverse faith communities, we must express concern with this legislation. While it may be advantageous to cut costs and make the system move faster, ideas which cannot be faulted, if the perception by the community is that the proposed changes reduce accountability to the community for police actions to the point where an oversight process is viewed as impaired, such changes are not in the best long-term interests of the government, the police themselves or the community at large. Such proposals need to be modified so that the perception of Bill 105 by the community is that such legislation will provide proper and responsive oversight.

**Mr Al Buttnor:** I'll just continue on. We feel that the following concepts are pertinent to such oversight:

(1) A complaint about policing behaviour should be able to be registered with any police authority no matter where the complaint occurred. An individual in the community should have easy and immediate access to a complaints procedure.

(2) A complainant should receive, upon the filing of a complaint, an information sheet on the complaints procedure so they may be informed of their rights and responsibilities in making such a complaint. This is to protect both the police and the individual. Individuals should be admonished from using the fact of filing a complaint as a media weapon or embarrassment to the police services.

(3) All investigatory notes, memos and correspondence relating to a complaint should be kept in an orderly and prescribed manner so that they may be provided to and reviewed by appropriate review bodies as to the thoroughness of investigation of a complaint. This is to include a civilian body. There is no accountability, only a pretence of accountability, where there is secrecy in a procedure or there is no requirement for the actions taken to investigate a complaint to be available to be reviewed by any oversight body, particularly a civilian board. This paper trail must be available and accessible for civilian oversight purposes to view trends of complaints and their handling.

(4) All reasons for a decision on a complaint need always to be given in writing to the complainant. This is only reasonable. However, police must be protected from litigation for the issuance of reasons, as such threat would inhibit the process.



(5) An official civilian police oversight committee should always have the power to start an oversight investigation on its own initiative. However, such investigation may only be begun based on a specific incident, not on whim or innuendo. This is to protect the police services from witchhunts with no parameters or specifications.

I think Michael has a closing comment.

1330

**Mr Kerr:** I just want to conclude by framing some of the thought that had gone on within the multifaceted committee in trying to develop our position. Our focus of concern was to ensure the fullest of integrity of the policing service, and the oversight process is a critical element of that. The elements of integrity that we identified were transparency, accessibility, accountability and shared learning.

Within transparency, there are such things as effective documentation and the public accessibility of the documentation.

Within accessibility was the need for third-party complaints. As Al referred to, the station-specific requirement we found to be problematic, and the perception of impartiality, again, the need for civilian independent review.

The third element of accountability is questions of timeliness, the provision of reasons for decisions and the duty to cooperate, both on the part of the chief — within the current legislation as it is framed, there are many instances where that isn't written into the text of the legislation — and also the individual officers involved in a given incident, which has long been problematic, as we all know, in various investigations.

The fourth element, which we find to be most important, is shared learning. That's a commitment on the part of the police services to an ongoing process of training which is basically the bedrock of how one goes about developing community-based policing, which is all the rage right now but often rhetoric and not brought to the community at the grass roots. Training in areas of use of force, lethal force, deadly force most especially; issues of diversity — ethnoracial diversity, but also faith diversity, sexual orientation; there's a long list we could provide; and certainly areas of mental health concern and dealing with homelessness. Several of those elements have intruded into altercations that unfortunately have resulted in severe injury or death. So we would be prepared to help, to be involved in a process of further development of those training programs.

To conclude, whether this proposed bill is more than anything else the legacy of the burden that we all share of the traditional role, the style and approach, the culture that has been adopted over time by the policing institutions, or — I think there's also a strong case to be made, and this was stated by some of our membership — of the apparent fear on the part of the politicians of the day of the capacity of the police service itself to mobilize and lobby, I think that's a critical dimension to where we're going with this particular piece of legislation. There's a fear of that lobby. But in whatever way it's motivated, consciously or not, what is being proposed here in Bill 105 we believe unfortunately profoundly compromises, if

not largely undermines, the fuller spirit of integrity as I earlier referred to, the four elements of which — transparency, accessibility, accountability and shared learning — serve as the four cornerstones of a system of police oversight that best provides for our future, a future of shared interest in having healthy, safe and secure communities.

**The Chair:** Thank you, gentlemen. Your time has elapsed, but I thank you for your excellent presentation for the consideration of the committee.

#### MUNICIPALITY OF METROPOLITAN TORONTO ANTI-RACISM, ACCESS AND EQUITY COMMITTEE

**The Chair:** Our next presentation will be made by Ms Bev Salmon, a Metro councillor. Welcome.

**Ms Bev Salmon:** Good afternoon and thank you for this opportunity to address you.

I'm before you this afternoon as the chair of the Anti-Racism, Access and Equity Committee of Metro Toronto, which is a committee of elected members of Metro council. At its meeting of January 21, following a discussion respecting civilian oversight of police, the committee unanimously recommended that I present to you the concerns of the committee respecting the proposed amendments to the Police Services Act.

First, let me mention that Metro council has a long history of supporting much greater municipal control over the policing function. In response to the proposed new Police Services Act back in June 1990, Metro council recommended that a majority of the members of the police services board be appointed by Metropolitan Toronto council. Section 18 in Bill 105 proposes precisely that, and I congratulate the government for that initiative. It represents an important step in reinforcing the principles of public accountability and local civilian oversight of the policing function. The police services board functions as one of the most important, if not the most important, civilian oversight bodies.

My only question with regard to appointments to the police services board relates to those who are ineligible. Bill 105 identifies those who are ineligible as "a judge, a justice of the peace, a police officer, a person who practises criminal law as a defence counsel and a person who is a member of a prescribed class of persons." My questions are, why defence lawyers and what is meant by "a prescribed class"?

I want to come back to the principle of public accountability, but first let me offer some comments on section 4 of Bill 105 in which are identified the minimum core services. The list is: (1) crime prevention, (2) law enforcement, (3) assistance to victims of crime, (4) public order maintenance, and (5) emergency response.

I find this list, and the order in which they are presented, of interest. I think this is a critically important section which deserves to be expanded and clarified. This section lays down the foundation of what it is we are talking about. It should open up some creative ways in which the nature of policing can be considered and the way in which the services can be delivered. For example, when we are talking about ensuring the safety and protection of our citizens, we are really talking of a much



broadest concept of policing than simply the potential functions of the police. In this sense, the police might be considered as just one part of the municipal safety and protection agenda.

In Toronto, a number of policing functions are carried out, for example, by a huge and growing private security industry. It has even been suggested that more resources are now devoted to policing functions by the private sector than by the public sector. Even in the public sector, separate from the police budget, considerable resources are devoted to policing functions by the Toronto Transit Commission, the Metro Toronto Housing Authority and many other such public institutions.

My point is that it is helpful to take this broader view of the policing function in order to gain a better understanding of who is best equipped to provide it. It may therefore require of municipalities in their budgetary process to undertake an audit of policing resources — not just the police, which can be one of several delivery vehicles — and match resources to problems.

I therefore think it would be a useful opportunity if section 4 of Bill 105 could reflect these kinds of realities and recognize the need for creativity and flexibility in policing delivery systems. Otherwise, I think we will have to continue to allow the police to control the policing agenda; that the function of policing will continue to be captured — colonized, if you will — by the police; and that the function of allocating resources to policing will continue to be merely the allocation of resources to the police.

Following from this, my next point is with regard to terminology. Bill 105 uses the terms “police force” and “police service” interchangeably. I would therefore encourage consistency throughout the bill and recommend that the term “force” be deleted and replaced by the term “service” throughout the document. This is symbolically important in reflecting the name of the act this bill is amending, as well as our understanding of the nature and function of policing.

1340

My next point relates to section 113 of the Police Services Act, concerning the special investigations unit. It is unfortunate that changes to the SIU are not addressed in this bill. Let me refer you to the Report of the Commission on Systemic Racism in the Ontario Criminal Justice System, December 1995. I really do think this is one of the most critical documents that can guide the agenda in implementing not only a police race relations strategy but also in guiding the community policing philosophy and strengthening the principle of public accountability. That is why I am very disappointed that the work of the commission is ignored in this bill.

While there are many issues in the commission's study of direct relevance to policing that are not necessarily incorporated into its recommendations, let me repeat those that are, which relate specifically to the issue of police shootings. The commission recommends that:

The Police Services Act be amended to require any officer involved in an investigation falling within the jurisdiction of the SIU to be required to turn any requested information and evidence over to the SIU forthwith and, in any event, no later than 24 hours after the request.

The Police Services Act regulations be amended to provide that the director of the SIU be authorized to charge any officer who fails to provide such information or evidence in a timely fashion with a misconduct offence.

The Police Services Act be amended to require that any officer who fails to answer questions from an SIU investigator be suspended with pay.

The Police Services Act regulations be amended to provide that when the director of the SIU informs a chief of police that an officer under the chief's command has failed to give a complete statement to an SIU investigator, the chief shall suspend the officer forthwith without pay.

In order to ensure that the SIU can conduct effective investigations, the legislation requires the full cooperation of all police officers, yet over the years, the SIU has been hampered in its ability to fulfil its role by the lack of cooperation from police services and the refusal of individual officers to be interviewed. This is unacceptable, and it is disappointing that Bill 105 was not used as an opportunity to address some of the present limitations in the effective working of the special investigations unit. I therefore urge that the commission's recommendations should be incorporated into Bill 105.

My last point relates to Part V of Bill 105, the complaint system. When the Attorney General, the Honourable Charles Harnick, announced the review of the civilian oversight process by Rod McLeod, his objective was that it should be “fair, readily accessible, objective and unbiased.” I certainly endorse that intention.

However, the proposed amendments contained in this bill appear to do the opposite. While I agree that reform and streamlining of the civilian oversight system is necessary, I certainly did not anticipate that the government's proposed solution would be the reduction of civilian involvement in the complaints process. The proposed amendments revert back to the old system of placing more of an onus on asking the police to investigate themselves. This, as we all know, is inherently unfair, not only to the public but also to the police themselves, who are compromised by an evident conflict of interest.

The present system entails an internal investigatory process that is monitored by external review. The public concern is that it is still inherently unfair because it is still dominated by the police themselves. I would therefore assume that the amendments to the Police Services Act would address this issue and further strengthen the principles of public accountability and civic participation by expanding the involvement of non-police citizens. Instead, however, to my surprise and dismay, the proposed amendments impose most of the responsibility to adjudicate the complaint on the chief of police.

For example, in classifying a complaint, according to section 58(3) of the proposed amendments, “The chief of police may decide not to deal with any complaint...that he or she considers to be frivolous or vexatious.” Without clarifying or defining what “frivolous or vexatious” complaints might be, this bill allows considerable arbitrary power to the chief of police.

Section 57(1) directs that “A complaint may be made by a member of the public only if the complainant was



directly affected by the policy, service or conduct that is the subject of the complaint," and it must be made to the "station or detachment of the police force to which the complaint relates or to the commission." This section is restricting who can make a complaint and where the complaint can be made. Why? It unnecessarily reduces accessibility for citizens. It ignores the reality of what can be a very intimidating situation for many complainants.

In addition, the proposed amendments provide less right of appeal to the complainant than presently exists, and they also give a more limited, passive mandate for the proposed new commission.

I am not sure if these proposed amendments represent unintentional oversight on the part of the drafters of this bill or whether they represent a purposeful dismantling of the civilian oversight of the complaint system. This bill clearly would be a huge setback to the civilian oversight process. It reduces the democratic principle of civilian involvement and it diminishes the fundamental tenets of public accountability and public accessibility to a major public institution.

In the evolution of attempting to create an independent civilian oversight system in Ontario over the last decade and a half, many others have detailed the improvements and changes that are required, the way forward, including the public complaints commission, the Canadian Civil Liberties Association, the Community Coalition Concerned about Civilian Oversight of Police and many others. Section 5 of this bill, as it presently reads, represents a way backward and should not be permitted beyond second hearing without major revision.

**The Chair:** Thank you very much, Councillor Salmon. You used basically all of your time, so there won't be time for questions, unfortunately. Thank you for your presentation here today.

#### AZELIN PHILLIPS

**The Chair:** Our next presentation, Ms Phillips. Welcome, Ms Phillips. We have 15 minutes set aside for you, so I'd ask you to proceed.

**Ms Azelin Phillips:** Honourable Chair, Vice-Chair, distinguished members of the committee, ladies and gentlemen, thank you for the opportunity to speak to you today. My name is Azelin Phillips, and I'm a resident of Peel. I am a member of the United Achievers club of Brampton, which is a non-profit organization established in 1980 to focus and to bring recognition to the role of blacks and Caribbean people in our society. A letter from this organization addressing the issue, I bring to your attention, will be submitted separately along with a list of signatories. I am also a member of the Peel community police race relations committee. This committee will also be submitting a letter addressing this issue.

I am appearing as an individual, not as a representative of any organization, and I wish to make it clear that my motive is not to criticize the undertakings of the government. I wish only to focus attention on the section of the amendments dealing with public complaints.

1350

I believe the efforts of the government to reduce waste and duplication are worthy of praise and, all things being equal, complaints being handled by police chiefs would

be an acceptable alternative to the expense incurred in having a civilian oversight body. However, we exist in a society where all things are not always equal.

The amendment is not fair to the public and it is not fair to the police. The police chief has an obligation to protect the members of his force. He cannot be expected to do otherwise. He also has a responsibility to members of the public. But being who he is, a member of the police, having to make critical decisions involving police and the public, the unavoidable reality is that the public will be at a disadvantage. It becomes a situation of one's own family versus a member of someone else's family, and naturally the question of loyalty and integrity comes into the equation.

The public deserves to be protected. The public needs to know that justice is not a remote concept, that it is real and, more importantly, the public needs to believe there is fairness in the application of justice. Based on past experiences, can we expect any fairness in the handling of complaints against police when the decision-making process becomes the responsibility of the police chief?

If the recent public declaration of support to his officers by Metro Police Chief David Boothby, even before he knew the circumstances of the fatal shooting on an empty TTC bus of a man suffering from schizophrenia, is any indication of the fairness with which complaints will be handled by the police chief, then may God help us all.

The chief of police will have the onerous task of deciding the merits of public complaints, and if he decides that a complaint is frivolous or vexatious, there will be no action taken. Can the public trust his judgment?

The checks and balances embodied in the current Police Services Act protecting the rights of the individual are the direct result of years of study and hard work, not only by members of the general public but by police officers. Eroding these safeguards and replacing them with nothing remotely similar is simply an act of political expediency without any regard for the public.

The black community suffers most from injustices at the hands of the police. It is therefore not unusual to witness an atmosphere of anxiety fraught with a sense of hopelessness within our community when a change of this magnitude occurs in our already biased system of justice. The new amendment is taking society back a number of years. I appeal to your sense of fairness and goodness to look at these changes and take a proactive step towards progress.

While I do not wish to minimize the long history of efforts others have made to effect positive changes on behalf of the black community, for the most part our ongoing plight is never fully understood by the larger community. Our daily struggles to feel we are part of the bigger picture leave many of us with a permanent look of anxiety, frustration, sadness or a combination of all these emotions. People, including the police, often mistake this for anger and quickly judge us.

There are those who believe our reasons to fear the police are imaginary, but only those who have had an imaginary gun pointed at their imaginary head or those who have been pulled over and searched for no other

reason than the fact that they bear a resemblance to every other member of the black race can speak with authority on this issue, but I believe I understand.

The larger society will not necessarily see this section of the amendment as intimidating and in most likelihood will believe in the impartiality of justice handed out by the police chiefs. From the perspective of the black community, however, this is almost an impossibility.

A 1987 study revealed that Peel, which has the second-largest multicultural population, was experiencing major problems between the police and the public. What was discovered then was that changes within the police services were not keeping pace with the new demographics. As a result of this, actions were taken to address some public concerns. As well, the current Police Services Act embodied certain changes which have helped to foster working relationships between the police and the public.

I do not for one moment presume to think the government does not have the interests of the public at heart. However, I believe too much is being taken for granted. I cannot believe the government just doesn't care. That would be too difficult to accept. I must therefore conclude that there is a misconception where the relationship between police and the public is concerned.

When a relationship is built and maintained because of the power one party exerts over another, that relationship can hardly be considered healthy. It can best be described as needs-meeting compliance. The relationship between the police and the public, especially the black community, is still very fragile. Continued effort in demonstrating mutual respect, goodwill and trust is needed to enhance this relationship. However, the police chief being responsible for handling public complaints will certainly not enhance this process. It will serve only to create more mistrust. Let's be realistic. It's not simply important to be fair; it is important to give the appearance of fairness.

The amendment combining most of the existing oversight bodies will result in savings of more than \$182 million annually. The police complaints commissioner has an annual budget of, I believe, \$9 million. This oversight body consists of approximately 55 staff. It has an office in eight cities of Ontario. But \$9 million dollars is not an incredibly large budget for the number of communities served by this civilian oversight body. Its effectiveness in maintaining goodwill and a measure of trust cannot be discounted or valued simply in terms of dollars and cents. This oversight body is the most basic, with direct access by the public. It offers assistance in a manner which does not alienate and intimidate. However, only about 50% of police complaints go through this oversight body. The reason for this is probably because many people are not aware of its existence. Therefore, if the rationale behind the elimination of this oversight body is lack of utilization, then the decision might be unjustified due to the lack of public awareness of its existence.

Whereas the new amendment deems that complaints be accepted only in writing and third-party complaints will not be accepted, the office of the police complaints commission accepts verbal complaints, written complaints, as well as third-party complaints.

We need to be cognizant of the fact that an unfortunately large percentage of the population is illiterate. Will

these individuals be expected to write their own complaints, even though they cannot read and write? Are they to be punished simply because of their academic limitations? Many people prefer to express their thoughts and report their issues verbally, not because they can't read or write, but simply because it is more comfortable for them. Are we suggesting that they forget about filing a legitimate complaint just because they don't trust their ability to write their complaints appropriately, as the mandate requires?

Some people are fearful of reprisal by the police. Are we suggesting that they get rid of their fear and simply walk into a police station and file their written complaints against police officers? There is nothing simple about this process.

When an individual has a grievance and cannot get an impartial party to listen, this individual is likely to become frustrated, and when his or her frustration builds, a catalyst will be found in order to vent. Venting does not necessarily mean verbal catharsis; it might be expressed in random acts of violence to property or persons. Are we sure we want to take the risk of being targets of such random acts of violence triggered by frustration?

The amendment closes several doors, leaving open one or two restricted doors; for example, the special investigations unit. The amendment also provides a high and narrow window, namely the office of the police chief, to deal with public complaints. The public needs a door at an accessible level, not necessarily a large door but an open door.

I do not believe the amendments to the Police Services Act were meant to create divisiveness. I believe an element of the total picture was inadvertently omitted. The fallout from this amendment will no doubt be felt more strongly by members of the visible minority communities. However, I trust everyone can see the potential for conflict and look at the issue not in terms of how the changes will affect them personally but to understand that there is a real possibility of a rippling effect. Let us refuse to utter or even believe within ourselves that an issue is not important simply because it does not affect us personally. In the long run, it becomes everyone's problem.

My recommendation is that the amendment be changed to include a civilian oversight body to handle complaints against police and police services. The reason for this recommendation is that although I understand and respect the cost-saving efforts of combining several oversight bodies, I also believe that the importance of maintaining a good and trusting relationship between the police and the public and having groups of people eventually getting beyond their differences far outweighs the financial savings.

Thank you for the time you've taken to listen to my presentation.

1400

**Mr Carr:** Thank you very much for a very fine presentation. I appreciate your taking the time. With regard to the oversight, as you know, OCCPS is there to be the appeal process, civilian process. What is your concern with that particular body doing the oversight? When you talk about not having civilian oversight, that's



what meant to do it. What are your specific concerns regarding that body?

**Ms Phillips:** My understanding is that when a person has a complaint, you send that complaint into the police station. Isn't OCCPS a further, a higher —

**Mr Carr:** You could send it to OCCPS too.

**Ms Phillips:** You can also send it to OCCPS?

**Mr Carr:** Right.

**Ms Phillips:** But what has happened with the police complaints commissioner's office?

**Mr Carr:** It's being rolled into the commission.

**Ms Phillips:** How accessible is OCCPS? Is it as accessible as the police complaints commissioner?

**Mr Carr:** Thank you very much.

**Mr Ramsay:** Ms Phillips, I want to thank you for your presentation. It was very thoughtful and it has made me think about amendments that we would bring forward to try to address some of these concerns you have. We'll be doing that in the next few weeks. Thank you very much.

**Mr Christopherson:** Thank you very much for your presentation. I thought it was very fair. You clearly went out of your way to try to embrace as much as you could in terms of the police community; at the same time you bring fair criticism.

I was struck by your comments at the bottom of page 5 when you acknowledged: "The relationship between the police and the public, especially the black community, is still very fragile. Continued effort in demonstrating mutual respect, goodwill and trust is needed to enhance this relationship. However, the police chief being responsible for handling public complaints will certainly not enhance this process. It will serve only to create more mistrust." How do you see that mistrust perhaps manifesting itself?

**Ms Phillips:** If one files a complaint, knowing that the police chief is going to be the person making the decision in that, even though the police chief might not be favouring the police officer, there is going to be that misconception there that favouritism will take place.

**Mr Christopherson:** How will that show itself in the black community as a result?

**Ms Phillips:** In the black community there's always mistrust, because as you know — I'm sure we're all aware of this — there are identified problems with our young people and the police.

**Mr Christopherson:** This is just going to make it worse.

**Ms Phillips:** I think so, yes.

**The Chair:** Thank you, Ms Phillips, for your attendance here today and your presentation.

#### URBAN ALLIANCE ON RACE RELATIONS

**The Chair:** Our next presentation is the Urban Alliance on Race Relations, Antoni Shelton. Welcome.

**Mr Antoni Shelton:** Mr Chair, I have with me, fortunately enough, a volunteer of the organization, a long-serving board member, Ms Charlotte Chiba.

As executive director of Urban Alliance, I think it's important to tell you that the Urban Alliance on Race Relations has been working in the field of race relations and policing for over 22 years, and before the creation of the special investigations unit and the Ontario police

complaints commission, the Urban Alliance was essential in establishing in Toronto the Council on Race Relations and Policing, which was a "partnership" between Metro police and the community. For reasons that I will go into in a little while, that council was overtaken by events essentially that happened in the community and the partnership was unable to withstand the pressure of media attention and pressure from both the community and the policing culture itself.

Having said that, we would like to address what we believe is the central issue in terms of the act and it is the headline of the newspapers this morning: "Police Chiefs to Handle Complaints Against Cops. Police chiefs will be given more power to stickhandle complaints against officers under legislation introduced by the Conservative government, Solicitor General Bob Runciman says."

There will be little confidence, we believe, in terms of the chief's ability to be perceived as objective and fair, because unfortunately there is a widespread perception that the police discriminate against racial minorities. In a survey performed in Nova Scotia for the Royal Commission on the Donald Marshall Jr Prosecution, about 60% of respondents agreed that police discriminated against blacks. In a similar survey conducted in Montreal, 53% of respondents agreed that the police mistreat citizens from ethnic minorities. In Manitoba, Ontario and Nova Scotia, aboriginal people have complained that they are singled out for enforcement action and stereotyped by the police. Studies performed in the United States and Great Britain also suggest that blacks and Hispanics are likely to have less favourable attitudes towards the police than whites.

Since the 1960s a considerable amount of effort has been devoted to studying the empirical basis for minority groups' less favourable perception of the police. Academic research performed in North America and Great Britain has examined the influence that racial factors play in decision-making by the police. In several jurisdictions the topic has also been the subject of special public inquiry. Most studies have also found evidence of differential treatment of blacks, Hispanics and aboriginal peoples in North America and blacks in Great Britain in their interactions with the police. We believe, given the multicultural nature of greater Toronto, this includes other diverse and ethnic communities.

As for discrimination against complainants, American studies have found that the race of the victim is an important determinant of decision-making on the part of the police and other actors within the criminal justice system. In one study, the race of the victim was found to be a significant determinant of police decision-making while the race of the suspect was not. In other words, if you bring a complaint the police, chances are your race will be more important than the subject officer's race. A study commissioned by the Royal Commission on the Donald Marshall Jr Prosecution found indications that police stereotype aboriginal people as being drunk and violent, but then discount the importance of calls from reserves. In other words, complainants from the reserves were treated differently than citizens off-reserve.

Why have race relations policies and programs made little difference to address this tension between minority communities and the police?

In April 1990, the auditor of the Metro Toronto police force was requested by the police services board in Metro to perform for the first time in Canada, we think, an audit of race relations in the Metro force. Allan Andrews felt that tensions between police and minorities persisted and he found no quick answer. He did say: "Much of the force activity in respect to race relations has been in programs in employment equity, in community involvement, and in other areas in which the force interacts with racial minorities. But most are framed in a form which views the force as an institution which does not require change at the core. Consequently, effort has been directed towards changes around the fringes of the operation or accommodation of differences in the community, without recognizing the fact that the institution, its culture and its values need to change."

1410

Allan Andrews went on to say: "We found no evidence at all of organized, intentional prejudice or bias against racial minorities." I think this is an important point. "Nor did we find evidence that the force attracts individuals who are covertly racist. We did find evidence that, over time, officers develop strong feelings and beliefs as to attributes of individuals based on factors such as appearance and racial background. These attitudes, when taken collectively, can and do produce a bias in behaviour which produces unequal treatment of individuals of different cultural or racial background."

Here we have perceptions of the police culture, here we have Allan Andrews's analysis and opinions on this culture and efforts undertaken through training and other programs to address the tensions between communities but still not getting at the core values of the force.

We believe then in light of this legislation on the table that the chief's track record in standing outside of the police core culture is perceived as free from bias and able to do fair oversight of police.

In 1992, we believe that there was a very seminal inquiry into exactly this question. The inquiry was into the administration of internal investigations by the Metropolitan Toronto Police Force conducted by the Ontario Civilian Commission on Police Services in August 1992, otherwise known as the Junger inquiry. Junger was a police constable who signed a controversial resignation agreement amid charges he ran an escort service with his then girlfriend. Junger signed the resignation deal with two members of Metro's internal affairs unit. In the two-page document, police agreed to destroy physical evidence related to Junger's personal business dealings with a call girl. The then chief refused in this public inquiry, or was unable, to clearly state to the inquiry whether it was under his responsibility to authorize and sign off on any deal with Constable Junger.

The so-called Junger inquiry also looked at a Jane Doe case where the complaint was that a officer had used his badge to extort sexual favours. These are complaints against the police force in Toronto, only in 1992. Two officers from the highly secretive internal affairs unit interviewed at least one witness in the Jane Doe case after it had been turned over to the public complaints commissioner. The chief was questioned as to who authorized it and why, among other things, Jane Doe's identity was potentially compromised.

We could go on about some of the examples that members of the public have experienced when bringing a complaint against the force, but with the brief time we've been given, I'll move right to what the police services board's response was to the Junger inquiry, because here we have provincial appointees and civilians on the police services board that called the Junger inquiry together and then were forced to act upon those recommendations.

The chair said in September 1992, "A number of significant events have taken place in recent months followed by recommendations that challenge the board to fully exercise its role as the civilian authority responsible for the governance of the police force."

The police services board recommended in section B in the document, attached to my submission, called "Direction to the Chief": "The board agreed with the Junger inquiry finding that an agreement entered into to obtain the resignation of an officer was highly improper in that it purported to provide, in exchange, an undertaking to withdraw a criminal charge, a promise to lay no other charges, either criminal or disciplinary, a promise to destroy evidence and a promise to keep the terms secret. The inquiry further found unacceptable the entering into of an agreement with no intention of complying with it."

Finally, in terms of our submission, we wanted to say that the board brought out a very central point, and that was that the Junger inquiry should not be seen as an attempt to focus on an individual but rather management and a lack of systemic response in terms of the policing service. As such, the police board went on to recommend: "Policies and procedures must be examined and changed...to ensure a higher standard of conduct is achievable. And finally, the board must put in place mechanisms that allow it to monitor the performance of the chief and the force in complying with these standards of conduct."

Even though the Junger inquiry wasn't a race relations inquiry per se, we thought it was nevertheless very important to look at this inquiry in light of, as we say, a piece of legislation that should be really sent back to the minister for amendments to the act because it attempts to transfer oversight power back to the chief without assessing the impact in light of reports such as the Junger inquiry.

**Ms Charlotte Chiba:** I'll just continue on with that point, sort of administrative law type of points regarding the amendments. We're very pleased to see that the government has decided to, at least on paper, put a large part of the expressed requirements, five core functions for police services, on to the board and to articulate very clearly what their function is and oversight sort of by the municipality, because they have control of the finances. What you're trying to do, I assume, is to put the responsibility of police services on the municipal — as you say, local — level.

On the other hand, in terms of those five core responsibilities, your question is, who does what? My question to you is, will it work? On behalf of the Urban Alliance, along with Antoni Shelton, we think that there are some serious problems here. Of course, we focus on the chief



of police and the civilian oversight because that oversight function is directly related to a number of the core functions that you have articulated in the bill, namely, crime prevention and public order maintenance. All these things are connected to civilian review.

If you look at civilian review as being a way of checking whether or not the board and the police are doing their jobs properly, then you might have to call question to the fact that you're giving all discretionary authority, you're delegating authority, to the chief of police to oversee the board, which I think is contrary to basic administrative law procedure or process. Clearly, if you're requiring the chief of police to receive complaints from the public regarding the board or a policy of the board, that's like asking an employee to receive complaints about his or her employer. This is not proper. This is improper procedure.

That goes against your five functions and your whole idea of accountability. The accountability is now switched. So it's not reasonable, there's no justification for giving the chief of police all this discretionary delegated authority. I haven't been able to find any. I submit that it's probably opening the way for abuse of power very much like what happened in the Junger situation. There are no proper checks and balances between the board's authority and the police and we're suggesting that there's no reason, in terms of civilian review or the civilian complaints system, for both the board and the chief not to get together to form some sort of group to receive these complaints. That would be more equitable, that would be more a perception of fairness. Those complainants who do not wish — and it's reasonable for them not to — to go to the police when they're already complaining about them — it's like in any workplace. If you have a complaint against your boss, you're not going to go to the boss to complain. Usually, they have human resources or something, a third party to complain to without feeling reprisal, being shot down because you're complaining. This is just human nature. You don't want to go to the person whom you think is causing the problem.

Am I out of time?

**The Chair:** The time is up. I thank you very much for your presentation. We have to move on to our next presentation. Thank you.

1420

DON WEITZ

**The Chair:** Our next presentation is from Mr Don Weitz. Welcome, Mr Weitz.

**Mr Don Weitz:** Thank you for allowing me to speak. I am here not to represent any group but myself. As some of you may know, I testified before a similar committee against Bill 103, and I consider Bill 105 an additional threat to democracy. Actually, it's a very serious fascist threat on citizen rights.

To go back just a bit, as an introduction, I've been involved with the psychiatric survivor community. I prefer to use the word "survivor" because I survived abuse from the system, along with thousands of others. I've been an unemployed human rights advocate for over 20 years, and I try to be as alert as possible to threats to the rights of people who are already marginalized,

already abused, already stigmatized traditionally in Canada and the United States and elsewhere. When a bill such as Bill 105, this bill under consideration, comes along and attacks our rights by further centralizing the power in the hands of one person, namely the police chief, to make extremely fateful and in some cases irrevocable decisions affecting the fate of my people who are already stigmatized, this is extremely serious. As you can see, I am very much opposed to it, which is why I am wearing my No Means No button once again.

I have a couple of things to say about a brother who was killed by the police not quite a month ago. His name has already been mentioned with great respect by the Chinese community and other communities: Edmond Wai Hong Yu, a brilliant, 35-year-old man who was unarmed when he was shot on a TTC bus at the base of Spadina Avenue, I believe on February 21. Along with many others, I was at his vigil. This has greatly upset a lot of brothers and sisters in the psychiatric survivor community who are now, on good authority I can say, in extreme fear that they will be next — yes, fear, through so-called responsible, so-called justified police action to an unarmed man.

The police officer apparently couldn't make the distinction between a toy hammer and a gun. This is a 22-year veteran by the name of Louis Pasquino. Mr Pasquino has already been mentioned in the press. He already has admitted to shooting. The SIU supposedly is investigating. Don't hold your breath about whether there'll be a thorough report, because it'll be biased, probably because Mr Pasquino has steadfastly refused to cooperate with the SIU. There's nothing, apparently, in law to force him. There's certainly nothing in Bill 105 to force him or police officers to cooperate with a lawful investigation. Why not? Who are you covering up for?

Obviously, if you pass this without any compulsion on the police to cooperate in an investigation of a death, you're actually complicit and a party to a coverup, a phrase that was already mentioned by previous speakers, so I am not saying anything that's new. That's one big thing. Don't expect any justice from an investigation by the SIU or any other into the death by a police officer. You ain't going to get it. When have we had it? When? That was a rhetorical question.

Yes, I am quite upset. And by the way, Mr Yu is one of 15 other people who have been shot and killed by the police within the last five or six years, and over three quarters have been people of colour. As a human rights advocate, as a citizen who is concerned about human rights, I deeply protest, I seriously protest this targeting, yes, targeting of people of colour and those with a psychiatric history. Mr Yu had three strikes against him: He had a psychiatric history, he was a person of colour — he happened to be Chinese — and he was homeless, poor. This targeting has got to stop. But the police don't see a problem. "Just an accident."

Let me rattle off the names. With respect, you should listen to these names because I don't want you to forget them. We haven't forgotten them. These are not statistics. These are human beings who have as much right to live as you have, but they were targeted. They were not, in most cases, a direct threat to the officers. Who are these nameless statistics?

Faraz Suleman, killed June 19, 1996; Wayne Williams, a black man, 24 years old, shot dead June 11, 1996; Andrew Rudolph Bramwell, March 14, 1996; Tommy Barnett, another black man, January 10, 1996, only 22; Albert Moses, shot in the face September 29, 1994; Ian Coley, 20 years old, shot twice in the chest April 20, 1993; Luis Vega, 28 years old, shot three times December 26, 1992; Raymond Lawrence, another black man, shot twice by an undercover officer May 2, 1992; Patrick Joseph Clements, 41, shot July 16, 1991; Jules Ernest Cubitt, 59, shot June 23, 1991; Joseph Gerard Boisjoly, 45, shot December 26, 1990; Donald Peltier, 19 years old, shot January 25, 1990. Three others were shot, three other brothers with a psychiatric history died from pepper spray, killed by police officers.

The last one to be killed by pepper spray was Zdravko Pujec from Croatia, on a psych ward, already manacled. Police officers from Durham came up after a call from Big Nurse at the Whitby Psychiatric Hospital. Whitby Psychiatric Hospital makes it a point of calling the Durham police when they need some help to restrain. Apparently, the drugs and the goon squads at Whitby aren't sufficient so they call up the Durham police for extra reinforcements. This was a man already shackled, right? So they come on the ward, ffffft, ffffft, twice; 30 minutes after, he's dead.

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I asked for a report from the SIU. I was refused it once. I appealed in the 'public interest. It was refused again. So much for openness and accountability by the police or this government. A patient, unarmed, sprayed to death by the so-called safe pepper spray. It has already been seriously criticized, if not condemned, in California and a few other states, but it's legal here. It immobilizes, it stops you from breathing, among other interesting side-effects, and the police are authorized to use it.

There is no accountability, it seems to me, on the part of the police officers to the public to let us know what really is going on. Bill 105 enshrines secrecy, it enshrines coverup. I have a recommendation which echoes Mr Antoni Shelton, others who've spoken on behalf of people, groups who've already been marginalized. Let the process be open. Let the decisions about whether or not there's going to be investigation be made by a civilian oversight committee. I have no trust in police investigating the police. Why should I, after mentioning these senseless, unjustified killings? I have no trust. I can speak confidently for a lot, maybe many hundreds, of people who've been fighting for human rights for people who've already been marginalized, invalidated and intimidated.

I think this whole bill should be scrapped and we should get on with really letting civilians, non-police, conduct the investigations, decide whether there is going to be an investigation or not, because so far the system is stacked against people who've already been stigmatized.

That's all I've got to say. I think you have a copy of my unpublished letter to the Star regarding Mr Yu, where I talk about the stigma, about the targeting on the part of both the police and the media when it comes to dealing fairly with people of colour, with people who have a psychiatric history. I'm very sick and tired of this perpetuation of stigma. I have really had it. I think we

need a lot more justice, but we're not getting it. That's all I've got to say about that.

**The Chair:** Thank you very much, Mr Weitz. Your time is up. Thank you.

**Mr Weitz:** No time for any questions?

**The Chair:** No, unfortunately you used it all up. A most provocative presentation. Thank you.

## ROY RAWLUK

**The Chair:** We'll move on to the next presenter, Mr Roy Rawluk. There is a written presentation by Mr Rawluk that's being distributed. Welcome, sir.

**Mr Roy Rawluk:** Good afternoon, Chair and members of the committee.

**The Chair:** I'll remind you, after looking at your presentation, that you have 15 minutes. I assume you're going to condense it somewhat.

**Mr Rawluk:** I was going to bury myself in the brief and that way I'd maybe be brave to face this committee.

As the Chair has said, my name is Roy Rawluk. I am a police officer and I have been a police officer for the past 22 years in Metropolitan Toronto. I'm a proud police officer, and it's part of my molecular structure. I thoroughly care about the direction policing is going, not only in this city but in this province, and that is one of the main reasons I am here, because I do have some very serious concerns about Bill 105.

I'm not going to follow my brief in order. There's four themes, basically, to my brief. It's 38 pages long, so I'll just get into the meat of it right away. I'll start with my concerns; it's not in the order of my importance to the concerns.

My first concern deals with politicization that I believe this bill is perhaps dragging our police services in Ontario towards in the very near future. That is based on the new funding imperative in Bill 105. I'll quote a little passage from a commissioner who made a report on discretion to prosecute in British Columbia. At that time, I think it was about 10 years ago, the commissioner stated:

"The rule of law in a democracy requires the public's ongoing consent and confidence in order to survive. Any widespread unease with the essential fairness of our justice system can cripple it. Perception becomes reality when suspicion of injustice is allowed to fester. The system must be capable of quickly and convincingly resolving any such doubts.... It is not enough to know...that the system works fairly. The adversarial nature of our political system and its apparent proximity to the administration of justice will inevitably raise questions of potential or other influential figures.... The system itself must be capable of demonstrating its integrity on an ongoing basis."

I'm afraid Bill 105, by allowing the municipalities to dominate by majority, by appointment to the police services board, will politicize policing. It's a predictable consequence of the functional proximity of the local police service to the local government and its dependence upon municipal council for funding and thereby, indirect control for identification and direction of law enforcement priorities. There's just no way around that. It's going to happen.



The amendments as proposed cause the creation of a model of control whereby it will be remotely possible for politicians to have significant influence on the chief's operational independence. This is a real concern because there is almost a subliminal thrust to major change, with little consultation of these implications.

This legislative move is perceived to be direct political control of police priorities, an illusory freedom to manage dependent upon efficiency savings and revenue production. In reality it is an astute shifting of police responsibility.

Let there be no misunderstanding on this point. Municipal politicians will have undue influence on operational police matters. Not safeguarding this fundamental imperative is a blueprint for disaster.

In the final analysis, the legislative scheme for funding police services is a meaningless ritual for the following reasons:

Only police service boards are allowed to appeal directly to the Ontario Civilian Commission on Police Services for municipal funding allocation review on inadequacy grounds. The chief can't. Police associations can't. The board is the only one, and the board is dominated by the councillors who made the funding decision in the first place. How are you going to get around that?

The second major problem is the chance of an appeal being launched: Again it's very slim. Politicians are not going to overrule their initial decisions.

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The civilian commission — and I want you to take very careful note of this — has significant powers over a police force, the chief of police and police services boards. However, the decisions of the commission cannot be directly enforced on a municipal council. There is no legislative mechanism in place to enforce the commission's decisions on municipal councils. So we appeal to the commission because we believe there's an inadequacy in providing services to our communities, and the commission may very well agree with us and make a ruling. But there is no enforcement mechanism to force a municipality to comply with that decision. That's a gap as big as a Mack truck. It has to be closed by legislative means.

The standards for police services are established under authority of the provincial government, yet financial responsibility for their implementation now lies with municipalities. Again, there is no legislative mechanism in place to ensure a municipality complies with the necessary fiscal support needed to maintain these standards. As previously stated, the structure of a municipality, which is majority-controlled by councillors, is a prohibitive factor in meeting this mandated compliance. These are major concerns that the bill does not address. Therefore, I recommend:

(1) That the chief of police and police associations have the right to appeal to OCCPS for an adequacy review.

(2) Municipal appointees declare a conflict of interest and refrain from voting on a policing adequacy motion appeal to OCCPS.

(3) Legislative changes be made so that OCCPS adequacy decisions can be directly enforced on municipal councils.

(4) Enabling legislation be passed that would ensure that municipalities will finance provincial policing standards.

That is my concern in regard to the funding, and I'll move quickly on to the other three areas.

Bill 105 involves a legal analysis and I'm not going to get into it. I went into great detail in my brief about it and I hope you will carefully read it. It's in "An Affront to the Legal Status of the 'Office of Constable'," and jurisprudence, Commonwealth-wise, will back that up. The law is clear on this point. The duties of police officers are of a public nature and not owing to the municipality or a board by which a police officer has been appointed. Further, it is concluded on the basis of law that the manner in which the duties are imposed by statute on a member of a police service is a matter of public concern and therefore the relationship of master and servant does not exist in law as between a municipality or a board and a member of a police service.

The distinction between the master-servant contractual relationship found in the private sector and the constable as a holder of office largely makes normal sanction processes under labour law inapplicable to the disciplinary process found in the policing context. This is so because labour law principles are founded on the contractual principles of master and servant.

I brought that up because in Bill 105 the chief can now make a finding of misconduct against an officer without a hearing and can impose a penalty of up to four days off, which is the equivalent of about a \$1,000 fine to a police officer, without a hearing. If the officer is not satisfied with that, he has an appeal but his appeal is only to an arbitrator who has a background in industrial relations and who deals with the master-servant type of contractual disputes. How can that be reconciled with the legal status of a police officer? You can't mix labour relations arbitrations with the holding of a public office. My brief goes into great detail about that.

My second theme is that the disciplinary hearing is a procedureless procedure; substantive fairness standards are abandoned. Values must be balanced and reconciled in a legislated discipline policy. The interests of the constable stem mainly from the principles of natural justice. Procedural fairness should prevail and the police officer therefore has the right to be treated fairly. This includes the right not to be subjected to administrative sanctions without the benefit of procedural fairness. The harm of being sanctioned without the benefit of procedural fairness certainly outweighs any gain therein.

As police officers we are not only mandated, I think we have a moral and legal obligation to uphold the law, yet when it comes to disciplining a police officer, that same law does not apply to us. That cannot be allowed to continue or allowed to go without serious thought of the implications. You can't expect an officer of the law to have fidelity to the legislative process if he's not subject to it. Please consider that.

My last point is this ridiculous misconduct rule for unsatisfactory work performance. It's a standardless standard. Just when you thought the government was taking seriously its assigned task of protecting the rights of citizens, this amendment resurfaces like a giant shark

in the movie *Jaws* and attempts to take yet another bite out of the procedural protections afforded police officers in this province.

It's just unbelievable that a rule will be made that's arbitrary and subjective, with no objective criteria to judge that performance. What does "unsatisfactory" mean? There's no definition of it. The chief could make a finding on a rule without a definition and fine that officer and the officer doesn't even know what he did wrong. I just don't understand it. For example, how is good practice defined? What criteria are used to judge good practice? How is good practice measured? The basic questions have to be answered before you could even think of disciplining someone under that rule.

In summation on this point, it is clear that a police officer must have a substantive right to compare his performance with set standards. Without such a relationship between the performance appraisal and performance standards, management will possess unfettered discretion to arbitrarily label any officer's performance unsatisfactory and the officer would have no basis on which to improve their performance.

I recommend this model if you're going to go into a performance appraisal system, and it must include the following substantive rights:

There must be objective standards.

There must be communication of performance expectations in a manner that is comprehensible.

Evaluations based upon the established standards which advise the officer of his or her degree of success or failure.

There must be assistance in overcoming difficulties and an opportunity to demonstrate acceptable performance both before and after a performance-based action is taken.

Discipline cannot be sustained in light of a failure to prove that an officer was not provided with one of these performance rights.

You need all of these. It's a package. You just can't isolate and say this is a misconduct rule, without a built-in backup system to justify that action.

Bill 105 must be amended so that solutions can be obtained to the following three critical policing concerns:

(1) How can legislators best integrate systems and operations within police organizations so that it has the capacity to solve the internal problems that could inhibit successfully addressing the community's difficult crime problems?

(2) How can police and local municipalities establish a police work environment in which officials are willing to consider whether ineffective and inefficient work is the product of systemic problems or of policy or managerial or training failures, rather than solely the individual responsibility of police officers?

**The Chair:** Excuse me, Mr Rawluk, just wrap it up, please.

**Mr Rawluk:** Yes, sir. My last point is, how can legislative action fashion a work environment that encourages police officers to be creative and gives them permission, within reason, to make mistakes in pursuit of good policing goals?

Without legislators, managers and the community granting police officers the appropriate permission to fail,

asking police to take risks in devising better methods to solve community problems and concerns sends a troubling mixed message and becomes a cruel joke. Thank you.

**The Chair:** I thank you very much, Mr Rawluk. There's no time for questions.

1450

#### NIAGARA REGION POLICE ASSOCIATION

**The Chair:** The next presentation is the Niagara Region Police Association, Mr Michael Pratt, Paul Disimoni, Richard Frayne and Robert Jackson. Welcome, gentlemen.

**Mr Michael Pratt:** Good afternoon, Mr Chairman. You're certainly running a tight ship today. You're right on time and I commend you on that. I certainly know you're not going to let me delay these proceedings, so I will make sure I don't go beyond the 15 minutes.

I believe that you and the members here are just about to receive a report or a presentation that I've put together. While that's being handed out, maybe I could take a moment — the names were mentioned, but I'd just like to take an opportunity to introduce the people here.

I am the administrator of the Niagara Region Police Association, Mike Pratt. To my right is the president of our association, Richard Frayne, a serving police constable; to the far right is a member of our board of directors, Bob Jackson, also a serving police constable; and to my left is another director of our board, Paul Disimoni, also a serving police officer.

What I would like to do in my presentation is take you through a brief history of an event in order to show you the need that the present Police Services Act be amended, specifically that section 25 of the act be amended to include police associations in the list of those who can request an investigation under section 25. As I've indicated on the front of this package, the contents are our documents showing an unsuccessful attempt by the Niagara Region Police Association to have the Ontario Civilian Commission on Police Services and the Solicitor General address serious shortcomings in the delivery of police services in Niagara.

I will at the outset suggest to you that the shortcomings that are highlighted in this document are serious shortcomings that should be investigated and that have not been investigated, even though we have attempted to have them investigated, and that is really why the legislation needs to be changed.

If I might direct your attention, first of all, please, to tab 1, you'll see that this is a letter addressed by me to Mr Murray Chitra, who's the chair of the Ontario Civilian Commission on Police Services, dated May 7, 1996. In the very first sentence I highlight that it is the opinion of our association that, in Niagara, the services board is not "providing an adequate and effective police service for the region of Niagara." I then go on to ask that the commission investigate this matter and schedule an adequacy hearing so that our allegations can be looked into.

I attached to that letter two press releases, the first one starting at page 1.3. Attached to that press release that I circulated to the media was a letter directed by me to the chair of the services board pointing out the deficiencies,



and then there are two pages, pages 1.5 and 1.6, which are descriptions of events that occurred in Niagara. The dates are there. The locations are there. The names of the citizens are withheld to protect their confidentiality.

I want to assure you right at the outset that all of these things are factually correct and at no time has any of this information, any of this material put in the press releases, ever been challenged. It could not be challenged inasmuch as we have the tapes that back up all of this information. The press release, starting at pages 1.5 and 1.6, highlights a variety of calls where members of the public, in our view, had to wait far too long for a response by the police service. For example, I'll just highlight very quickly two of these.

Towards the bottom of page 1.5, dated March 2, Fort Erie. There was an assault that was called in at 6:12 pm: "Citizen in bar calls to report he has been assaulted. Tooth broken. No ambulance required. Suspect has left the bar." That call came in at 6:12 pm. It took until 7:24 pm before officers arrived on the scene.

The next one, the same date but in St Catharines, at 6:57 pm: "Complainant says she refused to let a man stay in her house. He left saying he would be back with a gun. She knows he owns a gun." I would think that's a pretty serious matter. That call is approximately 7 o'clock. It took us almost two hours before we have an officer out at the scene. The press release describes a variety of incidents like that.

The second press release that we put out which was attached and submitted to the OCCPS is at page 1.7, dated March 19, and we have another list of lengthy delays attached. If I could just direct your attention, please, to the top of page 1.8. In Niagara Falls, on March 10, a sex offence, a 911 call at 3:02 am. "Caller at a motel says her girlfriend just been sexually assaulted by two males from California. Happened 20 minutes ago." At 3:44 am officer arrives. Frankly, this is, in our view, substandard police response to a serious call like that, to have the victim waiting around with that kind of complaint that length of time.

I just direct your attention to a more common type of complaint, if you will, on the next page, page 1.9, the top of the page, March 17, St Catharines, a motorcycle complaint. At 2:12 pm: "First female complains. Ongoing problem with kids on dirt bikes. They are there again right now." At 2:20 pm: "Second female complains." At 6:15 pm: "We advised" — that's the Niagara Regional Police — "the first caller of further delay. She does not want to wait till tomorrow."

That was the standard procedure at that point. In order to put these people off, we were suggesting to them that maybe they could call back tomorrow. The expectation of course is that they wouldn't call back tomorrow, and that would be nice because that's another call solved. But this lady, "She wants to see an officer tonight." At 7:09 pm the officer arrives. That was five hours and I take it — I'd put money on this — that the kids on the dirt bikes were no longer there at 7 o'clock that night.

The next document that I would just direct your attention to, please, that I submitted to OCCPS is at page 1.12, a letter to the honourable Solicitor General from a member of Parliament talking about undertaking the promise of the present government.

Then there is a response from the Solicitor General to myself, which is interesting, and then perhaps even more interesting, particularly since the member of Parliament who asked these questions is in attendance with us today, starting at page 1.15, are selections from Hansard in which Mr Peter Kormos asked questions of the Solicitor General and the Solicitor General asserts that there's no evidence that any of the transfer payment reductions have impacted on front-line policing. I would like to inform the committee that that statement was not true at that time and it is not true today. The evidence to that is being put before you right now.

The response from OCCPS in terms of our request for an adequacy hearing, having put all of that information before them, is contained at tab 2. Page 2.1 is the letter in which the commission simply says that they don't think it appropriate at this time to conduct any sort of hearing. In fact, they prefer to wait until the ministry itself advises them that they should conduct a hearing.

I then am forced to write to the Solicitor General and I attach virtually the same material. It has the media releases with all of the lengthy delays described in detail.

I also add some additional information because there are a couple of incidents that have happened in the meantime, one that you may have seen on CBC television. It was made the national news at the time and we felt extremely embarrassed. It was a disgrace frankly, but there it was on the news, showing that a motorcycle gang came down to Niagara and was able to push their way around. They could not be stopped by the police because we had an inadequate number of police officers on the scene. The reason for that is that the budget has been cut back so low that now, whenever they plan any sort of activity, they have to decide on how few officers they can get away with having at the scene because it cuts into the overtime budget. That's exactly what happened in the situation in Niagara Falls.

The chief had already warned the motorcycle gang, "Come on down to Niagara and we will take care of you." It was sort of an open challenge to the motorcycle gang. They responded to that open challenge and came down. We couldn't handle them because we had too few officers, and that was what was shown on national television. That is what I have referred to in the material here as the biker gang debacle. I submitted that to the Solicitor General.

**1500**

My letter to the Solicitor General is dated June 25. I get a response from the Solicitor General on August 13, and he says simply, or really the essence of this is, "Your service was identified earlier in the year as one of several due for an inspection in the upcoming months"; no real concern shown whatsoever with regard to all of the details that have been raised.

I wait a little bit longer and finally on September 13, I write to the Solicitor General and say: "Look, I haven't heard further from you. There's been absolutely no investigation taking place or audit of the service." I then get a letter back from the Solicitor General dated October 17, which is at tab 6, in which he indicates, "The audit will be taking place, and you'll be hearing further about it." Let me assure members of this committee that in



March 1997, no employee, no member of the policing services branch, has set foot in Niagara in reference to this matter. No audit of the force has been started and we have no firm commitment from the ministry in terms of when that audit will take place.

Two speakers ago, while I was sitting here, there was a gentleman making a very impassioned plea, and one of the things he wanted to happen is that the police start telling the truth about what's going on. What you have before you, I suggest, is a perfect example of the lack of response when in fact the police do tell you what is going on. We put it out in press releases, we write to the Ontario Civilian Commission on Police Services, we write to the Solicitor General. I would have thought that an association representing some 700 members of the police force, when they are whistleblowing, when they are blowing the whistle and saying that the employer is not providing adequate police service for the citizens in Niagara, I would have anticipated there would have been some interest shown in that. Frankly that interest has not been forthcoming whatsoever. We have been rejected by OCCPS. No hearing was held. We have on a very practical level, I suggest to you, been rejected by the Solicitor General. It's nice to have assurances, and I'm sure that he is an honourable gentleman, but someone must be letting him down because we still have not had anyone show up in Niagara.

At the end of the day, we are extremely frustrated. We don't know what more we can do to bring this to the attention of the public. Frankly, going public was not an easy thing for our members. The traditional approach has been to keep quiet. The theory was that we ought not to disclose these matters because the criminal element would then understand how short-staffed the police force is in fact. That's the very traditional approach. Our members directed the elected officials of this association to change that approach because we came to the conclusion that the only people in the community who did not realize how poor the police service was and is were in fact the good citizens of the community, because those are the people we're hiding the information from. The criminal element know it full well. They are the people who will easily and readily sit out in their cars if need be and count the number of police officers as the shift changes. It's the good citizens that this information is being hidden from. So we have come out in an attempt to bring this forward, yet no action has been taken.

We would urge you, therefore, to please amend the Police Services Act so that an association, if it makes an application to the Ontario Civilian Commission on Police Services, can obtain a hearing; that a hearing will have to be held so that evidence can be adduced. My assertions are simply not good enough. I recognize that. This is just paper information at this point. What we need is a hearing so that we can call witnesses, or maybe there could be an investigation take place by OCCPS even before the hearing, but at this point we have received absolutely no response, and we aren't going to, frankly, and other associations aren't going to until the act itself is amended. Please do not think this is a problem unique to Niagara. This budget problem is going on right across the province, and it's having a significant impact, particularly in the larger services.

**The Vice-Chair:** Mr Pratt, I do apologize. You have used up your entire 15 minutes and we do have to move on. Thank you very much for your presentation.

#### INTELLIGARDE INTERNATIONAL

**The Vice-Chair:** The next presenter is Intelligarde International Inc, Ross McLeod. Good afternoon, sir. You have 15 minutes for your presentation.

**Mr Ross McLeod:** My name is Ross McLeod. I am a former tenured professor of sociology at a Canadian university and have been for the past 15 years the president of Intelligarde. Intelligarde is a leading example of the positive aspects of privatizing law enforcement in Ontario. Our corporate raison d'être is to protect the assets and personnel of our private and public clients and to assist the police in protecting these client assets.

We have worked very hard and with considerable success to craft a smooth interface with local police forces by doing the tertiary policing that is below their current interest and resource threshold and outside their focus.

Bill 105, in renewing the partnership between the province, municipalities and the police, with the possible exception of subsection 5(5), has largely left out the private sector. I would respectfully submit this to be a serious flaw. I believe the calculus of this act contains an inner logic that propels examination of the possible role of private industry. With the cost of police services being defined to the penny, shouldn't serious thought be given to the issue of the most cost-effective way to deliver community safety?

The commonsense approach that has been taken to the delivery of all other services in the community must now be applied to police services. It is common sense to have the police focus on core competence issues of major crime, armed interventions and Criminal Code investigations, but common sense also tells us that it is the relatively low police priority items that irritate the public and degrade the quality of public life in our communities: car break-ins, vandalism, break-and-enters. Prioritizing by police departments and the raising of theft-over thresholds have relegated public police forces to merely collecting data for the insurance industry with regard to such minor crimes against property.

Loitering by prostitutes, johns, drug dealers, drug users, use of stairwells, parks and recreational centres as places to purchase illegal substances and perform illegal acts, this is the basic nomenclature of a disorderly society, that stops when police make a brief appearance and then resumes its illicit commerce as soon as the police cruiser turns the corner.

However, the constant uniformed presence that can be so effective against these minor property crimes and disorderly conduct that so irritate ordinary citizens can be efficiently and cost-effectively delivered by the private sector. There is already a market in community safety services, as evidenced by the burgeoning private sector security officers who outnumber their public sector police counterparts by three to one.

Make no mistake: There is enormous support and goodwill for the police throughout this province, but



common sense and public and private organizations are choosing with their dollars to purchase their basic lower-echelon community safety services from private sector suppliers. Bill 105 should recognize this fact and support this trend to the privatizing and outsourcing of basic community safety services. This would further free the police to focus on core competence Criminal Code policing.

Many of us have lived through the golden age of policing, which is generally construed as 1945 to 1985. In a generation, we saw the introduction of the portable radio, the cruiser, the 911 rapid response system. The logic of these developments led to the model that still dominates delivery of police services, namely reactive call-taking and rapid response intervention. However, that rapid response intervention service is only relevant to about 20% of all calls upon police services. What the public seems to want is a more personalized, community-based uniformed presence that is always there with them or nearby when needed.

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The public may well be ahead of their governments in their evident willingness to mix private and public services. They know their private sector source service has limited authority and powers. They understand this and they appear to like it that way. The public know how to get a real police officer when they really need one: by dialling 911. They also increasingly know how to source the private sector for the more mundane services that are important to them. Bill 105 could go further to create a competitive market for these basic services by explicitly allowing municipalities to source from the private sector.

Quietly but profoundly, changes have taken place on the leading edge of the private sector industry. Community colleges have been graduating vocationally oriented two-year law enforcement diploma students for years now. Young, sincere, energetic, and with a law enforcement education that is only now becoming a prerequisite for public police forces, these graduates are finding few opportunities in the downsizing public forces. Over 80% of Intelligarde's employees come to us with this background. To define these people out of Bill 105 would be an unfortunate underutilization of Ontario's human resources.

An example of how a market can develop quickly to the benefit of both police and the public is the recent case of burglar alarm response. Steadily growing alarm sales and a false alarm rate of over 90% frustrated a stretched police department and led them to introduce a billing rate of \$73 for each false alarm they attended. In less than six months this has moved more than half the alarm response business into the private sector where a competitive service is offered for about 50% of the police billing rate. During the next six months much of the remaining alarm response will follow. Now, in the very small number of cases where there has been an actual break-in, the police are called by the private sector responder to a verified crime scene — an efficient use of skilled police resources. Those who still wish police response can have it if they pay something approaching its actual cost. This is a market in basic services that benefits the public and the police. The inclusion of the private sector in Bill 105 would be a win-win situation.

There has been much discussion recently about some difficulties perceived to be inherent in the police complaints procedures and investigations of incidents involving serious violence. We don't have this negative perception on the private side, for a couple of good reasons. First, the private sector doesn't have the weapons and the powers of the public side so the incidents, even despite the 3 to 1 ratio of individuals, are insignificant. Second, and more important, the public appreciates that the private sector oversight system has worked effectively.

This oversight system has basically five highly effective levels:

At level one, the public can refer any perceived Criminal Code violation to the police. The police are quick to lay a charge where they feel illegality has occurred, and an individual who has charges pending or criminal convictions cannot hold a licence in the private industry.

Level two sees the registrar of private sector agencies and individuals policing the guidelines established in the industry by the Solicitor General's ministry through the policing services division. In the event of documented breaches, action is taken against individual and agency licences through fines up to and including cancellation of licence.

At the third level, the market comes into play, as a company tries to maintain its compulsory insurance and bonding. Companies that attract trouble quickly find that rates become punitive and are eventually withheld altogether by the insurance industry.

The market is still in play at the fourth level, as companies that attract negative publicity through inappropriate activities lose their customer base. Once again, the public votes with its wallet and purchase orders.

Finally, at the fifth level, the private sector is open to civil litigation, and that has a much more galvanizing effect than a citizen trying to sue city hall.

Thus, the civilian oversight and remedies for perceived and actual wrongs in the private sector are certainly more various and probably more effective than they are in the public sector.

I'm asking you today to take a second commonsense look at Bill 105 and to ensure that there is room for the private sector to create a market for the cost-effective and efficient delivery of lower-level but essential community safety services. Thank you.

**Mr Ramsay:** Thank you for your presentation. This is a very different approach and very unexpected since Bill 105 deals with public sector policing, so you've given me a lot of new things to think about in this bill. You talked about the checks and balances through people's pocket-books that regulate your industry. In law, what are the regulatory requirements of your industry?

**Mr McLeod:** It's a heavily regulated industry. The regulator is the Solicitor General's department through the policing services division in the person of the Ontario Provincial Police. They have an investigation unit. It's heavily staffed here in Toronto. They handle all the licensing, they do criminal record checks, they investigate any complaints from the public or other companies or end users. They have all police powers. They can come in, seize records, take them away. They hold inquiries. Their

inquiries are adversary proceedings. The ultimate decision as to the viability of a licence of an individual or an agency, a corporate entity, is up to, first, the registrar himself, and then, on an appeal basis, to the commissioner. So the regulatory apparatus falls squarely within the purview of the apparatus that we're talking here with Bill 105.

Additionally, we're just ordinary citizens and we're subject to the Criminal Code of Canada and all the enforcing and investigating procedures of the local police force.

**Mr Christopherson:** Thank you for your presentation. Before I comment, to be fair, I'm not real keen on the idea of the proliferation of private policing as we're seeing in the States. I offer that up front, before I ask my questions.

You said that it's cost-effective. The first question is: Are you proposing that these officers would have the full powers of a police officer?

**Mr McLeod:** No. You can have a range, from the powers we have largely now, which are no additional powers to the average citizen of the age of majority, right up to special constable status. The special constable status can be a warrant limited to a time, a place, while in uniform, working for a named company, and only for a listed number of offences, for instance, noise bylaw, environmental, stoop and scoop, that sort of thing. It can be delimited to a very, very set number of low-level offences.

**Mr Christopherson:** It can be similar to a security guard, so clearly not offering private policing per se, which is the impression that was certainly left with me.

**Mr McLeod:** I think "private policing" is an unfortunate name that summons up all sorts of different images with different people. What we're talking about here is a sort of value-added security service; it's a bylaw enforcement service; it's community-based patrolling. I'm not talking about a totally privatized law enforcement effort, as we see in some small American communities where the police force is totally privatized. I'm talking to a para-police function that assists and segues into and is used by the public police who still maintain their exclusive access to all the Criminal Code enforcement.

**Mr Christopherson:** I think the concern is that it's a slippery slope.

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**Mr Carr:** Thank you very much for your presentation. As you know, if you are to expand into other areas, there are a lot of people who now want to have more regulation of your particular industry. What are your thoughts on the present regulation? You touched on it a little bit with Mr Ramsay. Do you feel your industry has enough regulations now? What would you say to some of those people who are saying that we need to have some more regulations in your present industry?

**Mr McLeod:** It's like many areas of law enforcement. We have enough laws. In certain areas, they could be a little more vociferously applied. I thought it was unfortunate when the registrar's branch stopped personally interviewing applicants for licences and left it up to the agencies to put together the photographs and the applications and send them down as being endorsed. I felt that

was a bit of a slippage in control, but that could quickly be gained back.

I think we have enough regulations, guidelines and laws out there. It's just a question of the degree of enforcement that you want to put into it. I think the registrar's branch has been cut back a little, as has everybody.

**The Vice-Chair:** Thank you, Mr McLeod. I'm afraid your time has expired. On behalf of the committee, I want to thank you for your presentation.

#### COALITION OF AGENCIES SERVING SOUTH ASIANS

**The Vice-Chair:** The next presenter is the Coalition of Agencies Serving South Asians, Ram Jagessar. You have 15 minutes for your presentation.

**Mr Ram Jagessar:** Chair and members of the committee, on behalf of the Coalition of Agencies Serving South Asians, I am pleased to make this presentation. My name is Ram Jagessar, and I am the coordinator of the Coalition of Agencies Serving South Asians, which is an umbrella organization for the South Asian community of greater Toronto and 55 of the organizations that serve this community of over 300,000.

Our mandate is to advocate for and support existing, as well as emerging, agencies to ensure that the social service needs of the South Asian community are met and to play an active role in eliminating all forms of discrimination in society.

Our concern with Bill 105, the Police Services Amendment Act, is with the fundamental nature of some of the changes, which we believe will take the oversight of police activities in a backward direction rather than towards the future.

For this presentation, we will focus on three areas covered in the amendments: the proposed new structure, the complaints system and the special investigations unit.

We have very serious concerns about the proposal to merge the police complaints commission, the board of inquiry and the Ontario Civilian Commission on Police Services into a single new commission, with a reported 50% cut in its budget. Secondly, changes to the complaints system will mean that essentially the police will police themselves, with an extraordinary range of powers being given to the chief of police. The power of the new Ontario Civilian Commission on Police Services with respect to investigation of civilian complaints will be considerably restricted as compared to the powers that the current civilian complaints commission has now.

The special investigations unit remains in place to look at serious incidents involving the police and civilians. But the SIU will not be able to compel a police officer to give evidence or to punish an officer for refusing to do so any more than it can now. As a result, the widespread dissatisfaction with the SIU will continue.

In the name of efficiency, the amendments plan to merge three agencies into one super agency, the Ontario Civilian Commission on Police Services, the so-called new commission. On closer examination it seems to be considerably less than the sum of its original three parts, with a reported budget of 50% of the original three and



sharply reduced discretion in the handling of complaints about the police.

While the new commission will appear to enjoy expanded powers, will it have enough resources for accessible, effective and efficient operations? Will it have the linguistic and cultural resources to be able to handle complaints from a population estimated to be 53% racial minorities by the year 2001? Further, will it have a presence in all parts of the province to ensure that citizens can have easy access to it?

The committee should not need to be reminded that today greater Toronto has a population that is more than 50% non-English and non-French. A study done for the Metro Access and Equity Centre estimates that the racial minority population of Metro was 41% in 1996, last year, and is growing to 53% by the year 2001, just a few short years away.

This is a significant portion of those who will be interacting with the police, and we will need a prompt and efficient response when there is abuse by police of their considerable powers. When they have a problem, where will these people go to complain with the assurance that they will be heard, believed, supported and provided with linguistically and culturally appropriate services?

Like other members of the Community Coalition Concerned About Civilian Oversight of Police, we take the view that the police should be accountable to an independent, standalone civilian body. Especially in cases of misconduct involving the public, the police should not be investigating and disciplining themselves. Yet this is precisely what the amendments are proposing. The new commission will be standing powerless in the background while the chief of police makes all the decisions.

With the proposed complaints system, the complaint goes directly to the chief of police. He decides how to classify the complaint, whether it is serious or it's frivolous, whether it should be taken up or dismissed. He can resolve the matter informally if he likes. The chief of police does not have to get consent from the new commission for his actions, he does not have to submit monthly reports, he does not have to inform the new commission about complaints filed or how he has resolved them or give reasons for his decision.

The new commission may review the decision made by the chief of police, but the chief does not have to produce any documentation. We are being charitable in calling this a new commission, because it is obviously no commission at all. The authority to investigate complaints of police abuse will rest directly in the hands of the chief of police, and that is not acceptable. This is a system that has not worked before and will not work now.

Our community has grave doubts about the willingness or the ability of the police force to investigate police complaints and, in particular, systemic discrimination within the police service. We therefore recommend that a civilian agency investigate complaints against the police, with the entire process being separate from the police force. This agency shall report to the Legislature and not to the Ministry of the Solicitor General.

We are at least relieved to see that the special investigations unit was not disbanded and that there will still be

a hands-off group to investigate serious incidents between police and civilians. However, the bill does not give the SIU the power to compel police officers to testify before it, meaning that the SIU will still be kept waiting months and years to complete investigations.

In most serious incidents between civilians and the police, the most important evidence is that of the police officers directly involved. At the present time, the SIU does not have the power to make a police officer give evidence immediately about the incident or to penalize the officer for refusing to speak. Police officers can and do refuse to talk to the SIU, which is the only body mandated to investigate such incidents. For example, the officer involved in the shooting death of Faraz Suleman in June 1996 has yet to speak to the SIU, and there are others who have been longer.

This is simply not acceptable. The SIU must have investigative powers to allow it to perform its job promptly and effectively, as well as sufficient resources and staff. The amendments make no provision for changing this position, thus perpetuating a glaring weakness in the accountability of police for their actions.

These examples simply serve to show the philosophical directions of the major amendments to the Police Services Act, which is to move back from greater accountability to the public and the taxpayers. It is something we must oppose in the strongest way possible.

**Mr Christopherson:** Thank you for your presentation. Like a number of other representative groups today and yesterday, we've heard real concern, particularly in the visible-minority communities, about the watering down of the commission's role, the watering down of civilian oversight. You also have explained carefully why you think that is.

Would you comment for the benefit of the committee on what you think the result will be in terms of the reality of complaints. Do you think there will be fewer complaints? Do you think people will give up on it and the stats will be lower and someone will claim that things are better or do you see some other vision? Second, with the lack of trust that appears to exist in many parts of our community, how will they react over time to this perceived watering down, the reality of the watering down of civilian oversight?

**Mr Jagessar:** We expect that even at the present time there is a low level of complaints because many people are, quite frankly, scared to complain to the police, to give their name and address. This is why some people have been saying that there should be anonymous complaints and that there should be second-party complaints. We expect that if the changes are made, this will only get worse. You may possibly see the result of no complaints at all, or very few, especially from the racial-minority community.

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To answer your second question, we expect that if this is the case, the popular conception in many people's minds is that you can't get any justice there. If something is done to you, nothing can be done about it. That will be strengthened. You will see a wall being put up. People will simply say that you can't get anything there; this is a closed wall. What you have in a sense is alienation of

a large section of the population from the police. If people are alienated from police, they don't believe them, police become ineffective.

**Mr Carr:** Thank you very much for your presentation. With regard to the power of the commission, you have concerns about the powers. In what way are your concerns that they won't be able to fulfil the function of civilian oversight?

**Mr Jagessar:** It appears to us that the commission seems to have been shoved way back to the background and that its ability to influence the process has been severely restricted. As now, the police initiate the investigations, but with the proposed changes the police chief and the people he delegates to do the investigations don't really have to tell anybody what they're doing; they don't have to inform the commission in many areas, they don't have to give explanations. So there isn't another body to look over the shoulder of the police who are investigating the police. This is a severe weakness.

**Mr Crozier:** Sir, do you think that a Canadian citizen should give up their right to remain silent to protect themselves the minute they are sworn in as a police officer?

**Mr Jagessar:** I thought there was a trick question coming. I know what you're talking about. You're talking about the SIU?

**Mr Crozier:** Yes.

**Mr Jagessar:** I know the argument that the police should not incriminate themselves. We believe this is a special situation. The police are armed agents of the state who are interfacing with members of the public. When there is an incident, especially a death or a serious shooting, this is a special situation. The police officer must explain his actions to somebody. He cannot take the position that he's not incriminating himself and refuse to say anything.

**Mr Crozier:** If somehow we can force a police officer to do that — and I don't know yet how it can be done — if a police officer then is reluctant to use their firearm to defend himself when they're being threatened and is killed in the line of duty, the criminal doesn't have to give up that right.

**The Vice-Chair:** Mr Crozier, I am sorry, we've run out of time and we're going to have to move on.

Mr Jagessar, I want to thank you very much on behalf of the committee for your presentation.

#### CHAI KALEVAR

**The Vice-Chair:** Moving on to our next presenter, Chai Kalevar. Sir, you'll have 15 minutes for your presentation.

**Mr Chai Kalevar:** I didn't know the previous presenter, I still don't know him, but I agree with him 100%. I think police investigating police just doesn't carry credibility in the eyes of the public; that's the short story. Let me put it slightly differently. Let's say the police have a complaint against one of the members of this committee. Would you decide that if the complaint is against an NDPer, the NDP caucus will decide on the fate of that member, or would you decide that the Liberal caucus will decide on the Liberal member and the Tory caucus will decide on the Tory member? Certainly not;

you would ask for an all-party committee. Why in God's name, then, would you allow police to investigate themselves? It just doesn't make sense.

Civilian oversight is a must, is the bottom line on which this bill will be judged. Everything else is just crossing the t's and dotting the i's. So please make sure that civilian oversight is provided in this bill; it doesn't matter how.

Having said that, I don't want to repeat the sort of things that have been said about the bill. I would like to relate a personal incident which I thought couldn't happen in Toronto, but it did. It also perhaps reflects on the complaint process we presently have.

I don't know how or where to start. It's a very complicated situation. Very simply put, I have a civil court judgement in my hand. I'm trying to collect that from somebody. I'm also trying to persuade people who were involved previous to the complaint, previous to the judgement in the process, that he or she should pay up the judgement. When that is being asked of these people, a family, trying to get a civil judgement made good, somebody from that family complains, "He's asking for civil judgements to be made good," and what happens? The police jump up, knock on my door, arrest me and charge me with criminal harassment. Just imagine. Of course the charge was thrown out. But criminal harassment for trying to collect a civil judgement? What is a civil judgement worth? It's already not worth the paper it's written on. If you start charging somebody with criminal harassment for trying to collect a civil judgement, I must say there is something awfully wrong. What is wrong? I don't know. Maybe it's the thinking of the police, that people like me are always wrong or that we don't have the right to even collect civil judgements.

Anyway, this happened with me. I just think that's something I would rather see not happen. I have submitted some of the letters of complaint I wrote when I got the decision that the complaint against the police officer was dismissed. That speaks for itself. I hope some of you will have time to read it and see how I feel about the police complaints process.

The police complaints process has a requirement that every month they report to you. What do you get? You get basically the same report with a change of date. That's all you get, a change of date and where he made the phone calls. There's nothing of substance in the report. It's really a waste of paper.

I had to complain against another police officer in the same context, and the complaint was dismissed because they said the police officer had retired and it was out of their jurisdiction. I don't understand this. How can my complaint be dismissed just because the officer retired? There is always an officer ready to retire, and in my opinion — it's my suspicion — if this is the way jurisdiction works in this area, then he's always willing to oblige the other police officers with any dirty work that they have to do. It just doesn't smell good when you see these things happening. I can go into detail and this can take hours, but I would just say that this is just not acceptable as it is going on now and it won't be acceptable if Bill 105 goes the way it is worded now. It will probably be worse, as many have already said.



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In addition to that, I would like to take this opportunity to bring to your attention, since this is the committee on justice, as I understand, that section 16 of the Ontario Evidence Code in my opinion violates the charter in terms of section 2, section 15 and section 27 of the charter. By the way, section 16 of the Ontario Evidence Act is the section which allows courts to use the Bible in the courtroom. It is very interesting that courts have said, "No Lord's Prayer in the schools, but we will keep our Bible." I really do not see how that jibes. It seems like a blind spot in the eyes of the court, and I urge members of this committee to remove that blind spot and establish religious equality and religious freedom in Ontario courts. Thank you.

**Mr Tilson:** You've raised a comment that has been raised by a lot of deputants, and that is the issue of the independence of the police officer; in other words, that it's impossible for them to investigate complaints against themselves. There have been a lot of deputants who have come and said that.

If you look at the overall package of what the bill is trying to do — because even in my own constituency I've had people come and they say they haven't a clue, that the current process we've got is too complicated, it's too expensive, it's a zoo. That is of course what this government has been trying to do: provide a more simplified process, making it easier for people dealing with civilian complaints against police.

If you look what goes on beyond that, and yes, I agree it's possible for a chief of police to make false — or not make any position at all. But there are different things which an individual has the right to do. You can go to a police services board, particularly on issues of policy. You can go to a hearing and to the commission, and ultimately to the Divisional Court. In other words, those bodies don't have any police officers. I look at those early levels and if complainants aren't satisfied, you can go beyond that. Are you telling this committee that doesn't satisfy your concerns?

**Mr Kalevar:** Yes, for a number of reasons. Firstly, to the extent that the bill is trying to simplify the process, I think it's still moving in the right direction. It is very complicated; there is no doubt about that. But simplification doesn't mean giving up control of police investigation to police. If that's simplification, I think that's giving up. Simplification to me would mean, just like the previous speaker said and I'm sure many have said before, an independent civilian body with the power of calling police officers as witnesses to investigate. Nothing short of that will do.

**Mr Tilson:** You don't think the police services boards or the commission are independent enough?

**Mr Kalevar:** As a matter of fact, during this process I went through — if you want I can give you all the documentation I went through. I kept the chair of the Metro Police Services Board informed of what was going on and basically she said, "We can't deal with it." That's what she said. I don't know why.

**The Vice-Chair:** Mr Kalevar, can we move on to the next question? We are running out of time.

**Mr Kalevar:** I'll be happy to.

**Mr Crozier:** Good afternoon. I share your concern and that of almost every other presenter who has touched on the complaints system of the step backwards it would appear we're taking, notwithstanding the fact we might be attempting to make it better understood by everyone. Even to that point, I think on the very few — only two that I can think of myself — where I've had constituents come to me and ask how they make a complaint to the police, we had a brochure we gave them and as far as I know it was completely understood from that point on.

But what does happen, I suspect, because it did in these two cases, is a reluctance to have to report it to the department against whom they're making the complaint. I wonder if you'd comment on that, where under this legislation, it's my understanding you'd have to complain to the department in which the department or the officer or whatever the complaint was about. You couldn't go to the next jurisdiction and make your complaint. Did you feel any intimidation or would you think you would feel any intimidation that way?

**Mr Kalevar:** Definitely. Personally, I may not because I would just go ahead and do it and find out what happens next. That's the sort of attitude I take. But I think generally I would say people would. Yes, I definitely think so. Maybe I shouldn't give too much credence to that, I don't know if this is how it is, but at least one of the lawyers I was talking to who is involved in these kinds of things said it is not very uncommon, he actually said it has happened to everybody, that if anybody complains to the police complaints commission, especially if he succeeds any further and presses very hard, he is in some way or another shadowed by police.

Having heard that, I must tell you that on Friday I phoned in here for making a presentation, and Sunday morning at 6:30 there was a knock on my door. I got up and I went to the door, going to the peephole and saying, "Who is it?" sort of attitude, half asleep. To my surprise the guy had his thumb on the peephole. I said, "What?"

**The Vice-Chair:** Mr Kalevar, again I'm sorry to interrupt. We have to move to Mr Kormos.

**Mr Kormos:** I'm going to let him finish. Go ahead, finish, sir.

**The Vice-Chair:** If you want to give him your time, then that's up to you.

**Mr Kormos:** Go ahead, finish. You relax, Chair.

**Mr Kalevar:** The guy had his thumb on the peephole. Obviously I said I'm not opening the door for this jerk —

**Mr Kormos:** As it ends up, who was it?

**Mr Kalevar:** When he moved away — I waited till he moved away and the police badge flashed.

**Mr Kormos:** But you don't know why he was there?

**Mr Kalevar:** No.

**Mr Kormos:** Fair enough. I understand your submission, Mr Kalevar. I understand it very clearly. As was pointed out, at the end of the day, whether you deliver, mail or fax your complaint to the commission or to the police station, it ends up at the police station that you're complaining about.

**Mr Kalevar:** That's right, and it gets there faster and their replies don't come to us for a long time.

**Mr Kormos:** The other interesting thing, though, is that if I observe something happening on the street that

causes me great concern, that causes me to believe that a police officer may be misconducting himself or herself, and I'm standing on the other side of the street, I'm not entitled to make a complaint because this bill eliminates third-party complaints. It denies me the right as a citizen to relate my concerns about the conduct of public servants. Do you have a view about that?

**Mr Kalevar:** Yes. I think that's not fair. Firstly, there's no reason for this bill to reduce the rights of citizens, and secondly, I have myself observed many times police officers, for no other reason than maybe getting a doughnut, parked in a fashion which if we were parked in we would get a ticket right away. I really wonder, why is getting a doughnut an emergency for the police officer?

**Mr Kormos:** But if you want to talk to a ticked-off police officer, talk to one who did get the parking ticket.

**The Vice-Chair:** Mr Kalevar, I am sorry, but your time has expired. On behalf of the committee, I want to thank you for your presentation.

**Mr Kalevar:** Thank you very much.  
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**The Vice-Chair:** Before we move on, there have been a number of documents, three in fact, that have been handed out to committee members at the request of members. These are from the ministry, answering some of your questions. The first one is Investigating and Hearing Powers of the Ontario Civilian Commission on Police Services; another one, Filing a Complaint about a Police Officer; and one more, Compellability of a Police Officer at a Disciplinary Hearing. Those three have been circulated by the ministry at your request, and you have them now.

#### KIRAN FOLEY

**The Vice-Chair:** We will now move on to our next presenter, who is Kiran Foley. Welcome, Mr Foley.

**Mr Kiran Foley:** I had an assault in October 1994 in 52 division, and I just put it through last month through the police commission, and it's been turned down because of the six-month waiting period or whatever.

Also, I got assaulted February 19 by the Quinte-Madoc OPP three times in one night while my cuffs were behind my back in the back of a cruiser. I got it on the side of the road, in the parking lot of the Quinte-Madoc station and in my cell. I've got the ribs and all the injuries, and I'm still going to the doctors, and I've got the X-rays and all that. I'd like to know, what's going on? Where's this serve and protect? Is it they serve people by injuries and they murder them and all this, and then they protect themselves? That's what it seems like.

Also, because I've been in this city for almost 30 years and I've lived with black people and native people, I'd like to see the government stop the police from murdering and beating up blacks and natives in this province. I think it's about time, and I denounce the government's inaction on black and native complaints, concerns and issues.

I know it's going to take a bit of work. A small amount of progress has been made already, but there is a long road ahead. A better understanding of the past will guide us along this road in the future. Thank you.

**Mr Ramsay:** Kiran, thank you very much for your presentation. Do you want to give us any details about any of these incidents that you were involved in, what in your mind —

**Mr Foley:** I got arrested for intoxication on Queen Street. I was taken to 52 division and I was put in my cell with two other police officers on both sides of my arms. When I was in the cell I was standing up and they were both holding me on each side, and one guy popped me in the side of the brain and I passed out. They let me out early because I was still a bit intoxicated, but I was out and I came back two hours after. I walked in with a broken shovel handle, about two feet long, and I had it down by my side. I went in and asked the guy at the desk for a coffee. This is about 5 o'clock in the morning, maybe two hours after I had been released.

Anyway, the next thing there was about eight cops coming down the stairs and around the counter and everything, so I backed out the front door and they all came out and I dropped the stick. So I go back in — anyway, I go through court and everything else. I get charged with a dangerous weapon and I get convicted because the cop lied. I get convicted with a dangerous weapon. That's the one.

The other one I'm going for with the OPP. That's something else, man. I don't know what kind of police force they have in that OPP. I don't know if they're just mad dogs and Englishmen or what, but I got sticks in my heart, my ribs, my shoulders, my organs, down between my nuts, between my knees, my ankles, my wrists. My face was all covered in marks from being banged into the snow bank. My coat was rolled over in salt. All I had was my joggers and socks when I got arrested, and my cuffs were always behind my back. I might have a little bit of an Irish tongue or whatever, but it's no reason to beat some man three times in one night.

I'd like to see something. I don't trust no OPP or any police force in this country. I don't trust none of them. All you get back is papers and denials, because they're serving it out and protecting themselves, and that's wrong. You need civilians in on this. You need changes, man. All these kids in this country, they know what's going on. They see this stuff going on in this country.

You people here in the government, you're the people who are supposed to set an example for my kids and other kids in this country. I think it's about time you guys do your job. You're getting pretty well paid for it — you know, take the short cuts and do it right. You've got all the funds. You've got everything.

**Mr Kormos:** Mr Foley, I join in thanking you for bringing some personal experience. I've got to tell you, it sounds very much like things have gone awry and off course. Gary Carr is the parliamentary assistant to the Solicitor General. He is here on this committee, and I am hoping that before you leave, Mr Carr will give you his business card and make a commitment to see you in his office so that he can personally find out what went wrong in the processes that you got involved in. Madoc, you say, is one of them?

**Mr Foley:** Quinte-Madoc.

**Mr Kormos:** Okay, and down at 52 division here. I know Mr Carr would — he's the person. We're only in



opposition. He's the person who is as close to the Solicitor General as anybody. I'm hoping that you, Mr Carr, would give this man your business card and commit yourself to meeting with him so you can review this in the privacy of your office and follow up on it. Is that fine with you, Mr Foley?

**Mr Foley:** Yes, thank you.

**Mr Kormos:** Would you expect anything less from him?

**Mr Foley:** No. Just a simple explanation.

**Mr Kormos:** Thank you, sir. Stick around, because Mr Carr is going to want to talk to you, I'm sure.

**Mr Carr:** Thank you very much for your presentation. Your procedures have been through the complaints process now under the present system?

**Mr Foley:** The one has. The police commissioner denied the other one. He says there was a six-month waiting period and all this, and he denied it because I was seeing my psychiatrist since then. But I've been seeing my psychiatrist for three and a half years because I got beat up, assaulted, seven times in BC. I went to the police brutality commission, Supreme Court Justice Wallace T. Oppal, and diddly-squat came out of that, and I was the first one up. Diddly-squat, and then he went all around the country for about three months, and diddly-squat came out of it. All he gave me was a card and that was it. Nothing.

**Mr Carr:** Thank you very much.

**The Vice-Chair:** On behalf of the committee, Mr Foley, to thank you very much for your presentation.

#### ONTARIO PROVINCIAL POLICE ASSOCIATION

**The Vice-Chair:** The next presenter is a little bit early. We had the 4 o'clock cancellation, so we'll move to our 4:15 slot, which is the Ontario Provincial Police Association.

**Mr Brian Adkin:** Thank you very much, Mr Chair and members of the committee. My name is Brian Adkin and I'm president of the OPP Association. I am a detective staff sergeant with the OPP anti-rackets branch. With me this afternoon are Jim Drennan and Mr David Brown. Jim is on my left. He is the administrator of our association. Jim is a former police officer with the RCMP, Barrie and Halton regional police, and has extensive experience in the field of education. On my right is Mr David Brown. Dave is the vice-president of our association. He's a sergeant stationed at the Kawartha detachment.

The OPP Association is the collective bargaining agent for all uniformed members of the OPP. We represent 4,600 men and women who are stationed throughout Ontario. Our members provide front-line municipal policing service to 576 municipalities, as well as provide specialized traffic patrol, criminal investigation and special assistance to the public and police forces throughout Ontario.

We are extremely concerned about the welfare of our members and how they will be affected by Bill 105. Our colleagues from the other police associations have spoken on a variety of subjects involving Bill 105 and as a result we will confine our comments to specific subjects.

Our paper and presentation will address the following subject areas: discipline and appeals; oversight; equity funding; police service boards and the OPP probationary period; SIU, duty to cooperate, investigations and mandate; unsatisfactory work performance; consultation with crown attorneys; auxiliaries; and OPP civilians.

**Discipline and appeals:** The proposed discipline process must be changed to allow for members to have the right of trial for less serious matters rather than an assigned penalty. While there has been some attempt to use employment matters as a reason to justify this action, we cannot accept it. Our members can be assessed a penalty of up to five days' pay without any type of hearing. This is wrong and cannot be accepted.

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Imagine this scenario: Any one of us is stopped by a police officer on the side of the road. The police officer says: "You have committed an offence and the fine is \$1,000. Pay now and there is no trial. If you want to get your money back, you can file a grievance." It's totally unfair. Even in the lofty wages that are made by the members sitting around this table, \$1,000 is a lot of money. There's no doubt about that. Even dealing with a traffic ticket, a member of the public has a right to a hearing, and the same process is necessary for our members. A thousand dollars is one week's pay and this penalty is too severe.

The grievance process is not an effective method to use as an appeal process. This can be an incredible area of power for a chief of police. It can and will be the subject of abuse. This area will be used in a punitive fashion against our members. The quick and speedy method of dealing with less serious offences is not proper or fair. It is a draconian power that will result in inconsistencies, fear and high costs. Morale will be driven into the ground.

The OPP Association has approximately three grievances a year that go to an actual hearing. This results in very positive results for our members and management. Let me assure you that if this type of grievance procedure is implemented for discipline, our grievances will increase astronomically. This is not what you want as legislators or we want as police associations.

We ask that this committee maintain section 59, with the right to trial for those less serious matters, to ensure that our members have the right to a fair and impartial hearing. Our right to appeal a conviction must also be maintained for this process to be seen to be fair. We urge you to place the appeal provisions of sections 63, 64 and 65 of the current act into Bill 105.

**Oversight:** We are very pleased with the draft legislation streamlining oversight. It is time that the amount of money expended on complaint investigations has been recognized. The proposed handling and classification of complaints by the chief of police or the OPP commissioner is an improvement over the existing method. A chief of police or the commissioner is quite capable of ensuring that complaints are assessed accurately and investigated properly.

To be quite frank, the old medley of the police not being able to investigate themselves has worn out. This statement is not appropriate for the times. Police officers are quite capable and competent to conduct their own

investigations and in fact do most of these investigations now. The old line of police being incapable is something advanced by people who hold the police in contempt now and who will always feel there are many police officers out there waiting to cover up whatever they can to protect the fraternity. This is not true, and the professionalism of police officers will not allow it to occur. It is quite refreshing to see the pendulum swing back from general mistrust of the police to a system which we believe the public has great faith in and will support.

It seems most unusual that we entrust the police to investigate the most serious crimes in the Dominion, to utilize the most invasive procedures when heinous crimes demand it — and they are authorized when police pursue a criminal who could even be one of their own off duty — but we buckle at the knees when we think of police officers investigating complaints or offences involving police officers, most of which are unfounded or not sustained. We believe the public will support the proposed system of dealing with complaints. In most cases apologies will solve problems and save investigations. Many victims and officers are both pleased with this action.

The rights of our members, however, must be protected. We need this committee to replace the rights which our officers lose with the new act by ensuring that they are notified about a complaint against them and about each step thereafter. Our members are in an unpopular business. They take enforcement action which people do not always like. As a result, people lodge vindictive complaints to support their own positions. Protection is paramount for our members. Balance, fairness and natural justice must be provided for our members in dealing with complaints.

We are most pleased with the implementation of equity funding for those municipalities not currently paying. We believe this will result in better service delivery.

Police services boards and the OPP: With the OPP providing the policing service to a total of 15% of Ontario's population, we are supportive of the proposed amendments which treat all taxpayers fairly. Along with equitable financing comes the governance of police services. The OPP is encouraged and supportive of the amendments dealing with the creation of community policing advisory committees in areas policed by the OPP but not directly under contract. This type of community involvement has been in place for some detachments across the province for some time, for example our Kawartha detachment, which has had policing advisory committees within Peterborough county since 1991. The 14 townships form five committees which provide community involvement and feedback into the service delivery in their communities.

Probationary period: Subsection 44(4) of the act is being amended to remove the need for a second probationary period to be served for police officers who join a municipal police force from another municipal service, the Ontario Provincial Police, the Royal Canadian Mounted Police or a prescribed police force outside Ontario. This change removes the redundant need for fully trained and competent police officers to be evaluated as if they were new recruits.

Even with this progressive amendment, the Public Service Act still requires amendment. These officers who join the OPP are still forced to serve a probationary term to comply with the Public Service Act. This is embarrassing and degrading to these experienced and fully qualified officers. Following with the intent of the proposed amendment, we request that amendments to section 44 of the act or 6(2) of the Public Service Act be made to remove this totally unnecessary process, making the movement to any police service for fully qualified officers equal and fair for all.

Special investigations unit — duty to cooperate: We've heard a great deal about the application of the Charter of Rights as it relates to the right to remain silent. In fact, there is no entrenched right in the charter to silence. Section 2(d) of the Canadian Bill of Rights deals with self-incrimination. As Delisle and Stuart write in Canadian Criminal Procedure, "Protection against self-incrimination is narrowly confined to the right at a criminal trial not to be a witness against yourself." Even the Law Reform Commission commented on it when they said that the police shall not question a suspect with regard to any offence for which a person is suspect unless the officer has given to that person a warning, including the right to remain silent.

The Ministry of the Solicitor General's office has stated it will continue to discuss the issue of the duty to cooperate under the mandate of the special investigations unit, but this issue is not being considered in Bill 105. There is no doubt, given the ongoing pressure from special interest groups, that this issue will remain at the top of the agenda of the special investigations unit and others who seek to punish police officers whom they feel have done wrong. It is for this reason that this committee should understand clearly the position of the OPP Association and our unwavering determination to stop such senseless discussions. Our association will stand with all others of like mind to ensure that the rights of police officers to fairness and equal treatment under the laws of this country will never be sacrificed in the name of expediency.

Let's call it what it is: It's not a duty to cooperate that we are really talking about, but the right of the state, through legislation, to remove the most basic of all citizens' rights, the right to remain silent. To remove one's right to remain silent in the face of charges would bring disrepute to our system of justice, jeopardize our right to a fair trial before the law and the right to be presumed innocent. There should be no doubt about the importance to all citizens, not just the police, of the right to remain silent.

Our position on the SIU investigators and the SIU mandate is enumerated in our paper, and we won't further discuss that.

In relation to unsatisfactory work performance, we feel this is a totally inappropriate section to be codified within the new act. This is a section that should deal with performance improvement and is at best a labour relations issue that should be dealt with through performance reviews and monitoring of work performance. It is inappropriate for it to appear in an area where it can be a disciplinary offence.



The balance in what police officers do from day to day should be determined with several principles in mind. Those principles are identified on page 16, and the key one is, "What does the community want from their police officers?" This is critical in determining work performance.

**OPP civilians:** During the policing summit and post-summit discussions, there were unanimous recommendations from the OAPSB, AMO, OACP, OSOA, and the PAO that the OPPA should represent the civilians and uniformed members of the OPP. The amendments within Bill 105 did not address this recommendation. The OPP Association is the only police association in Ontario that does not represent both the uniformed and civilian members of the police force.

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The Ontario government only allows strike disruptions at OPP locations, not at municipal police services, as illustrated with the last general strike of the Ontario Public Service Employees Union. Members of the public as well as uniformed members of the OPP had to wade through picket lines to deal with the policing issues of the day. A large number of OPP civilians want to be represented by the OPPA but due to the current legislation and the makeup of their union locals, they have no option but to stay within their current bargaining agent. Their only option for change would be with amendments to the definition section 2 of the Police Services Act or amendments to section 26, the definition of association, in the Public Service Act.

Inequities with amalgamations occur when civilian employees are not allowed the same opportunities as the uniformed employees to join the new employer. This creates hardships with the employer to try and find work for these employees or release them from employment altogether. The amalgamation process would be greatly streamlined if all potential employees were given the same level playing field. The government is standing silent on this issue, which does not alleviate the stress, uncertainty and abandonment being felt by employees who are not getting a fair shake. This is an extremely difficult issue for people to deal with.

In conclusion, as association members, we have worked through the Police Association of Ontario. The PAO has raised many concerns for this committee to act on and provided you with the appropriate resource material. Our colleagues from other associations as well have made presentations to alert you to their concerns. We caution you to listen to what they say and to act upon their recommendations. We are concerned about our members' rights and protections. This will be the most significant change to the act that has ever occurred. The amendments should be fair and should look to the future to ensure that all of policing and the public derive benefits. We ask that you consider these choices carefully. They will be around for a long time.

Thanks very much, Mr Chair, for the opportunity to present today.

**The Chair:** We have about 30 seconds per caucus, enough to make a comment. Mr Kormos is first — or Mr Christopherson.

**Mr Christopherson:** You caught me off guard. I thought Peter was going to cover that one.

It's good to see you again, guys. What I was struck by was your real concern about the issue of the disciplinary action and the arbitrary nature of the powers that, in your case, the commissioner is now being given. If they don't make those changes, what do you plan to do? Do you plan to document cases where you think there's been abuse so you can then reapply pressure down the road? This government's not known for doing a lot of listening during these hearings, so I'm just curious.

**Mr Adkin:** What will happen, Mr Christopherson, is the number of grievances will rise astronomically, penalties that have been meted out will be appealed and things will be just totally bogged down in the process. We see that as having an impact not only on ourselves and on other associations but also on the operation of the force, and then the general fall of morale will take place as well and the inefficiency of the whole system will be very apparent.

**Mr Carr:** Thank you very much for a fine presentation. Thirty seconds doesn't give us enough time, so I do appreciate that. On page 3 you talk about the discipline and appeals and the fine of \$1,000. Is there any amount, if it was a lesser amount, that you feel you could live with in that process?

**Mr Adkin:** No, there isn't, Mr Carr. The whole situation, exactly like the example, is that a person has a right to trial, they have a right to a hearing. Many of these things become principle issues. The officers should have the right to say, "This is what happened," or should have a hearing before any kind of penalty is assessed. It's so arbitrary to bring someone in and say, "You're going to have to face this," or, "My opinion of this is that you should be fined \$500." That's a lot of money in this day and age, it's a lot of money any time, and there's just no amount. A person should have a right to a hearing.

**Mr Ramsay:** Thank you for your presentation. I'm certainly going to be prepared to move some amendments to bring some fairness to your side of the equation here. I've been quite struck by many comments by the police associations as to the arbitrariness of what the chief can find and not have a police trial. I accept that.

On the independence of investigation, in a way, I agree with you. I would say 99% of the time we could probably get a fair and independent investigation, maybe 100% of the time. What I do know, though, is that I don't think a great portion of the public would perceive it as being so, and that's the dilemma we have. We've got to design a system that the public has confidence in, not just legislators, and that's our dilemma.

**Mr Adkin:** I can appreciate your dilemma. It's a difficult one. The question is, what percentile of the public are you listening to? When you look at the public at large, does the public really understand what the complaint system is all about? Do they understand the millions of dollars that are being spent by people to investigate complaints when they think perhaps it's just maybe a short investigation that takes a few hours and they don't understand just how complex it is? I think if you were to speak to most people in the public, they feel that police officers are professionals, and I can assure you that the people who carry out those roles as complaints investigators are professionals as well, because their

actions are also governed and looked at and assessments are made on those and they want to do their job appropriately.

If you looked by and large at a large segment of the population and said, "Do you feel this is fair?" they would say yes. Policemen can come to our house, they can investigate murders, they can investigate robberies, they can investigate assaults, they can investigate break-and-enters; we're quite confident they can also investigate complaints against their own. As I said, I think the time has turned. People will give you that mark and they will say, "Yes, we have confidence in them."

**The Chair:** Gentlemen, thank you very much for your presentation.

#### TORONTO MAYOR'S COMMITTEE ON COMMUNITY AND RACE RELATIONS

**The Chair:** The next presentation is by the Toronto Mayor's Committee on Community and Race Relations, Ms Cidalia C. Faria. Welcome. In case you haven't been told, you have 15 minutes, including all questions. I ask you to proceed.

**Ms Cidalia Faria:** It was a good thing I came early. Good afternoon. As was said, my name is Cidalia Faria and I'm a member of the Toronto Mayor's Committee on Community and Race Relations. I'm here to provide a perspective from the committee and from those who work with the committee.

Essentially, when looking at the amendments to the Police Services Act before you, the perspective we'd like to offer is in terms of who we're dealing with, what we're dealing with and why we're dealing with it.

In terms of who, the police force is an organization like any other, as you all know. To put it bluntly, it is an organization that is licensed to kill. Therefore, because it has the authority of the state, as it should, to protect and serve all members of the community, it also requires that the standards by which they exercise that authority be thoroughly and competently reviewed so that the public that entrusts its liberty, its safety to the police force can trust that police force. So it's about accountability, it's about trust and it's about the tremendous amount of authority the police officers and the police force have to protect and to serve the community.

In terms of the people who are before you and the people I represent, the police force is paid by taxpayers. In this day and age when the deficit and money and economics are high priorities, it's quite imperative that everyone understand the extent to which the police force is funded by the taxpayer and the extent to which the taxpayer has every right to demand accountability. The performance of the police force must meet the standards of the community that pays for that service, that is subjected to that service and that counts on that service to protect it. Therefore, such competence and such monitoring and such control demands not that some officers be competent and professional, not that many officers be competent and professional, but that every officer be competent and professional.

If that is so, when the occasion arises that a police officer is alleged to have misbehaved or behaved not in

accordance with policy and procedure, then the public has the right to have account of that behaviour. It has to have a body that is independent, that can investigate such allegations and have confidence in the results of the body that does that investigation.

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Why are we doing this? Essentially because we live in a democracy. That's a pretty simple statement. But if the public doesn't have confidence in the police force, then the authority of the police force is diluted. I don't think anyone, either before you or in this room or in the community at large, wants a society or a community that does not trust its police force, because then we're on a slippery slope to a different kind of society that no one states is the objective.

There are also some basic rights in question. In so far as police officers have rights, and they certainly do, and as a lawyer I certainly believe they have rights, so does the public at large. One of the things that has confused some of the debate is the complications between labour law, constitutional law and employment law. One may use one area of law to mislead, and another may use another area of law to strengthen their own position. However, bandying about Charter of Rights or employment law or labour law without delineating the actual complexity of the situation misleads both the public and the police force in terms of their rights.

In order to deal with specifics of the amendments, it is inappropriate for a person complaining or making an allegation of misconduct to go to the source of the misconduct that they are alleging happened. It would be inappropriate to have a colleague of yours subjected to your own judgement. We all know, for example, that in party discipline the party line must be toed, regardless of what happens in caucus. If I allege that a colleague of a politician lied, you're obligated not to either confirm my allegation or deny my allegation. A police officer is a police officer, and the chief of police is a police officer. It is inappropriate to place that person, whoever he or she may be, in a position to judge their own, particularly when the trust of the public is in question.

The person just before me stated that the majority of the public doesn't understand the public complaints system or may not understand the amount of money involved in properly investigating an allegation. The fact of the matter is that over the last 20 years we know very clearly that significant portions of the population have serious concerns about the policing services being provided to their communities and in this city and in the Metropolitan area. The Commission on Systemic Racism in the Ontario Criminal Justice System documented such concerns. There have been numerous studies that have actually proven that there are problems with the system. That means that improvements have to be made, not dilution of public confidence or accountability.

It is inappropriate for the new commission that is being organized to only review allegations. Their review is dependent on the documentation provided to them by the complainant and by the chief of police by whom the decision is being made. That means the documentation is already limited.



In the amendments there are, to my mind, no substantial resources given to the commission in order to investigate independently what constructs the allegations. Actually, at one point the amendments state that the commission can be one person, which really brings the point home. There is also no mention of the extent to which any investigation conducted by the commission has authority to do so. Again, in terms of law, there is no legislative authority to compel anyone to speak to an investigating commissioner. This bill doesn't actually deal with the SIU at all, and everyone is quite clear, I would believe, that the SIU has encountered several obstacles in trying to obtain information during its investigations because of lack of cooperation.

How can the public trust a system when that member of the public who has a complaint has to go to a police station, has to make the allegation and the complaints to a police officer, which will then be investigated by another police officer, whose decision will then be rendered? If that person disagrees with the decision rendered and there actually is ultimately a hearing held, the prosecutor can be a police officer, according to these amendments; the person who is hearing the allegation can be a police officer, according to these amendments. How can a member of the public have confidence that their allegation is being independently investigated when all around them are police officers? Without denying the objectivity of many police officers to conduct a professional job, the point is not "many," the point is "every."

Over the last 20 years, several organizations and communities have advocated for an independent civilian body to review policing services. "Civilian" means "non-police." It's pretty elementary in that case, which means you can't have the police chief making the decision at first instance. Whether it's about something being vexatious and frivolous or whether it's about an unsubstantiated allegation, it's still a police officer making that decision.

There is no denying that the present system is bureaucratic and has duplication and doesn't work as efficiently or effectively as it should. However, to throw away the baby with the bathwater doesn't leave us with much. To change the dirty water into other water that is still perceived to be water still leaves the public with the sense that they are being policed by people who are unaccountable.

In so far as police officers have the right to hold a gun and to pull that trigger, that officer must also meet a higher standard of accountability for when that weapon is drawn. If you picture yourself in a situation where you are isolated with a police officer, at that moment, when that police officer may inappropriately search you, stop you, detain you, abuse you, you have no power. However, our system depends on the fact that every individual, if such an incident occurs, then has a backup system. That means they have a body to turn to, that they have confidence in, with the authority to investigate their allegation.

Now, if it's you or I in such a situation, because of who we are and because of what we look like because that is the reality, our credibility will not be challenged as much as that of other members of other communities. If it is a black youth, if it is a sex trade worker, if it is a

homeless person, if it is a single mother on welfare, if it is a person who resides in a high-crime area, if it is a person with a criminal record, that person has no more rights and no fewer rights than you or I. However, if you or I make a complaint regarding the conduct of a police officer, you and I will receive more credibility, more respect and more accountability than those persons. That is inequality, that is unacceptable, and I think that is unacceptable to every one of us and to every member of the public, regardless of their political persuasion.

In terms of trying to deal with the objective of this legislation, the objective of the legislation, which is to provide civilian overview, in effect eliminates the word "civilian," because more power is given to the police forces in order to investigate their own. That may have been appropriate had there been a consensus that that's the option that the society is choosing to take. But the fact of the matter is that this bill arises from several consultations with those stakeholders on one side of the equation. The fact of the matter is that it is well known that in the summer of 1996 several police organizations were consulted by this government in preparation for this bill. That's correct and as it should be. Those organizations have legitimate interests to be voiced and to be heard.

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However, on the other side of the equation is the fact that this bill comes from a process that lacked consultation with community members who have the concerns that I speak of. At several points, the government of the day stated that it was willing to listen to community submissions. The fact is that the legislation was drafted and presented prior to such consultation.

This bill reflects, again, legitimate concerns of one side of the balance, which are police forces and their associations and those stakeholders. However, the other side of the equation, the community served by the police force, was not consulted in any meaningful, substantial or thorough way. Again, how can the public be confident that their allegations will be impartially investigated if the bill that designs the process did not take their positions into account?

A coalition of over 25 organizations presented a report to the Solicitor General with some of their concerns. The responses to those recommendations were inadequate. What we have here is a situation where those most disadvantaged and those most subject to possible abuse have the least resources and the least voice to participate in this process.

My submission, then, is that this committee take into account the fact that taxpayers pay for the police. Therefore, it is not a request, it is a demand that they perform competently and that they be accountable. Competence and accountability can only be reflected by an independent investigation body, which has the confidence of the public, with the authority and the resources to conduct those investigations properly and which has the confidence of the public and the police force in order for everyone to be able to work together.

It is inappropriate for a police officer to be vindicated by one of his or her own when he or she knows that the public will not perceive that as vindication. It is also

improper for a member of the public to have their allegation judged by someone they perceive not to be independent. Both sides lose, because there is no confidence in the result nor the body that reaches that result.

In terms of taxpayers, in terms of democracy, in terms of the fact that unless we trust those who are authorized to protect us, there will be no one to protect us, it behooves each and every one of us to take a look at who we are, how much power we have, how many resources we have, what kind of credibility we have and how not all in our community have that same credibility, resources and privilege to be able to defend themselves.

**Mr Ramsay:** Thank you very much for your presentation. It was very well given and very thought-provoking. I think you're right that this bill doesn't strike a balance between community rights, if you will, and police rights. I think there's a lot that needs to be improved about this bill, and I'm almost wondering if it can be improved. Maybe we should be starting over. But you bring up a lot of good points, and I'm going to be considering them for amendments.

**Mr Christopherson:** Thank you for the presentation. Could you expand a little on the lack of consultation on the part of the government. One of the things it committed to in the pre-election period was lots and lots of consultation. Are you aware of any consultation, outside the police stakeholder groups, that took place prior to the tabling of the legislation?

**Ms Faria:** No, I am not. The clearest I have was that on December 17, 1996, the coalition held a meeting to discuss the McLeod report and how to respond to it. The coalition decided to produce an alternative report and submit it to the government by the week of January 13, 1997. They wrote to the Solicitor General and the Attorney General regarding the submission of such an alternative report during the week of January 13, and on December 19 both ministers said they would be willing to listen. They did the same on December 20. However, between December 20, 1996, and January 14, 1997, the legislation amending the Police Services Act was drafted. So they never looked at the report, although they stated publicly that they would listen to members of the community.

There was no consultation coming anywhere near the kind of consultation the government had with the stakeholders on the policing side. There was a two-day summit in July. There were meetings over four months. There were several discussions over what those particular organizations felt was necessary and important and advocating on behalf of their interests. However, none of the groups represented by the coalition — actually the report was written by the African Canadian legal clinic — were contacted or consulted with. To my mind, there was none.

**Mr Tilson:** The majority of complaints on police officers now are adequately dealt with by chiefs of police today. You speak about an independent civilian investigation body, which would require a substantial amount of financial resources and which would require a certain amount of education of such a civilian group to be capable of making investigations that the public would be confident in and rely on. Is the city of Toronto prepared to put forward the amount of money to construct a

bureaucracy and administration for such an independent civilian body?

**Ms Faria:** If it is the responsibility of the provincial Legislature to enact the Police Services Act, then it is the responsibility of the province to ensure that every officer abides by that act, and since that act is the one that defines what misconduct is, then the financial obligation to ensure that every officer abides by that act would lie with the province.

**Mr Tilson:** What you're suggesting is that there would be a provincial civilian body, as opposed to individual civilian bodies around the province to deal with local issues.

**Ms Faria:** That's right.

**Mr Tilson:** You'd want one large civilian investigation body that would investigate problems from Kincardine to Ottawa, Hamilton, Toronto. Is that what you're saying?

**The Chair:** I'm sorry, Mr Tilson, our time is limited and your time is up. Thank you very much for your presentation here today.

#### CATHY HOLLIDAY

**The Chair:** Our last presentation of the day is Cathy Holliday. Welcome, Cathy. We have 15 minutes set aside for you, which includes any time for questions. Please proceed with your presentation. Everyone has received Ms Holliday's written presentation.

**Ms Cathy Holliday:** As background, I'm a registered nurse and a full-time employee at Toronto General Hospital. I'd like to say at the outset that I understand what a difficult job the police do and I have always thought it's somewhat like ours in that we have an enormous amount of responsibility and are expected to rise to the occasion on all occasions, and that's very tough sometimes.

I'm a member of the Ontario Coalition Against Poverty and the Toronto Coalition Against Racism. I offer the following criticisms of the proposed legislation on the grounds that it will exacerbate existing social problems of systemic racism, sexism and classism.

Essentially, I believe the abolition of the office of the public complaints commissioner will eliminate civilian oversight of policing, leaving the police to control the whole complaint process. Recent history has demonstrated that the police organizations are no more immune to these systemic prejudices than other institutions in our society. I would ask you to consider the following facts which support this.

On racism: Although black people constitute only 7.5% of the population of Metropolitan Toronto, 25% of police shootings since 1991 were of black people.

Between 1990 and 1995, three out of every 100 homicides were police shootings. By comparison, in 12 American cities, including New York, that figure would be one in 100. That's from a press release by Clayton Ruby on September 29, 1996, Toronto Star, page A6.

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I include as an appendix the compilation of police shootings of Afro-Canadian and other people of colour since 1978 by the Black Action Defence Committee, and I leave you to read that. It's kind of a sorry record. I would add to this several other deaths where class and



race prejudice on the part of the police force could be a factor and those are as listed on page 2. Also, following that is a partial list of suspects and prisoners who met their death in custody, either police custody or in jail. Three of these were suicides, one was a murder by a fellow prisoner, but to my mind that reflects a lack of trusteeship of the human beings who are in the jail by the police system.

The purpose of listing these events is that, even with the existing checks and balances, none of the families or communities of these victims were satisfied by the investigation process. The proposed legislation will widen this exclusion of whole sectors of the population. The Police Services Act should certainly be amended but in the opposite direction, to extend democratic rights to all the people, regardless of race, gender or class. I would ask this committee to totally rethink the proposed amendments and suggest serious consideration be given to the following:

(1) Implementation of the report of the Commission on Systemic Racism in the Ontario Criminal Justice System issued June 16, 1996.

(2) Retain civilian oversight of complaints against the police. Stop the undermining of the special investigations unit; give the SIU power to conduct fair and impartial investigations.

(3) Screening of recruits to the police force; training in anti-racism; instruction in labour history, economic causes of social problems. Restructuring of police forces to eliminate militaristic hierarchies and authoritarianism. Training of officers in control of suspects without using deadly force.

(4) Stop the use of hollow-point bullets. These are adding to the fatality rate in police shootings.

(5) Stop high-speed car chases. Since February 1989, at least nine teenagers have been killed in attempts to recover stolen property or to make traffic charges. Protection of property above human life is not justifiable.

(6) Implement the suggestions of police complaints commissioner Gerald Lapkin regarding strip searches.

Finally, I would draw your attention to recent international criticism of Ontario's judicial system. Conditions in the Don Jail have been quoted as violating human rights of prisoners. Cuts to legal aid have been criticized by the Centre for the Independence of Judges and Lawyers in Geneva. The proposed changes further deny our democratic rights.

**Mr Christopherson:** Thank you very much, Ms Holliday, for your presentation. If the amendments go through as proposed, what do you think the implications will be within the various communities in Ontario?

**Ms Holliday:** I think there will be a further decline of trust, as the previous speaker said, and that government is only by consent. If distrust grows among the population, the population becomes ungovernable, so I would think it would be a serious concern for the current people in power.

**Mr Christopherson:** You're suggesting that you think there may even be an increase in lawlessness, as opposed to the opposite?

**Ms Holliday:** Yes. Also, the police themselves have made statements that if they are not allowed immunity, I

would call it, and are allowed to behave with impunity, they will refuse to go into certain areas. I think it's already been seen that this happens in the US, where police services have been refused to black people.

**Mr Carr:** Thank you for your presentation. As you know, the process under the proposed changes is that there will be the OCCPS commission to go to. If somebody is upset or doesn't agree with the findings through the process, they can appeal to the commission. What's wrong with that system that does have the checks and balances of having a civilian commission to appeal to if you are not satisfied with the process? Why do you want to see that expanded beyond having this civilian commission that you could go to if you weren't satisfied with the outcome of the hearings with regard to the police? Why would that not be satisfactory?

**Ms Holliday:** As I understand it, the legislation is folding the civilian complaints commission into another body which is controlled by the appointees by the Lieutenant-Governor and by the government. I don't see that as the same as the old civilian commission into police complaints. Not that it was being very effective, but I don't see that as a reason to do away with it all together.

**Mr Carr:** In what way was the present system not effective, then, in your mind? You say the present system doesn't work. In what way?

**Ms Holliday:** I think it was a matter of not giving the people on those bodies enough authority to do what they were supposed to do. I have filed a complaint against the police and the final answer I got from that commission was that apparently there was a lack of evidence. The evidence had all been compiled by the police in the first investigation and the other side was not — there were no witnesses. If that commission was not empowered and given the money, the finances, to carry out an investigation of the other side of the story, they would not be able to build a case.

**Mr Crozier:** Good afternoon. When you refer to the implementation of the report of the Commission on Systemic Racism in the Ontario Criminal Justice System, were there specific recommendations in that which you could remind us of that you feel should be a part of this bill and that would address some of the concerns you've brought to us today?

**Ms Holliday:** I have to admit that I haven't read it for a while and I couldn't be specific about it now.

**Mr Crozier:** I'm going to admit something to you: I haven't read it at all. But I thought even if you haven't read it for a while, you might be able to help me.

**Ms Holliday:** I don't think it's a difficult thing, but cutbacks are eating into democracy. I think money has to be set aside so that democracy can work.

**Mr Crozier:** I guess my point is that I would like to think in Ontario that most of us are not racists. Nobody's going to come out in an interview and say "I'm a racist," so it's difficult to get what they call for in the act, which is that to be appointed a police officer, one of the four or five qualifications is good morals. I'm paraphrasing a bit, but the word "moral" is used. That's difficult to get at, isn't it?

**Ms Holliday:** That's what?

**Mr Crozier:** It's difficult to know whether an individual has good morals or doesn't, isn't it?

**Ms Holliday:** I'm sorry. Who says they should have good morals?

**Mr Crozier:** Well, the police act. I'm paraphrasing, but it's "good morals and community principles" or something like that to be appointed police officer. Well, how do you know that? I'm asking you.

**Ms Holliday:** Psychological testing can be done and in fact it's been suggested for people who work in the prison system by Mr Runciman, I believe. "Good morals" is kind of a Victorian formulation.

**Mr Crozier:** I just thought you might have an opinion.

**Ms Holliday:** It's more a sense of justice that you would need to have.

**The Chair:** Thank you, Ms Holliday, for assisting us here today.

For the purpose of the record, I'd just like to read in — I'm not going to read the whole thing, but in regard to questions made by various members there have been legal opinions tabled, and you should have a copy, all dated March 18, 1997, one dealing with the compellability of a police officer at a disciplinary hearing, the second dealing with the filing about a police officer, and the third, investigation and hearing powers of the OCCPS. You should have that.

We will be adjourning today until 10 am in Ottawa at the Citadel Ottawa Hotel tomorrow. On Thursday, again I remind you that the meeting at the London Westin Hotel does not start till 10:40, rather than 10.

If there's no other business, I hereby adjourn.

*The committee adjourned at 1651.*











## STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

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Mr David Ramsay (Timiskaming L)  
Mr David Tilson (Dufferin-Peel PC)

**Substitutions present / Membres remplaçants présents:**

Mr Gary Carr (Oakville South / -Sud PC)

**Clerk / Greffier:** Mr Douglas Arnott

**Staff / Personnel:** Mr Andrew McNaught, research officer, Legislative Research Service



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## Legislative Assembly of Ontario

First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 19 March 1997

# Journal des débats (Hansard)

Mercredi 19 mars 1997

**Standing committee on  
administration of justice**

**Comité permanent de  
l'administration de la justice**

Police Services  
Amendment Act, 1997

Loi de 1997 modifiant  
la Loi sur les services policiers



Chair: Gerry Martiniuk  
Clerk: Douglas Arnott

Président : Gerry Martiniuk  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Wednesday 19 March 1997

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Mercredi 19 mars 1997

*The committee met at 0959 in the Citadel Ottawa Hotel, Ottawa.*

## POLICE SERVICES AMENDMENT ACT, 1997

LOI DE 1997 MODIFIANT LA LOI  
SUR LES SERVICES POLICIERS

Consideration of Bill 105, An Act to renew the partnership between the province, municipalities and the police and to enhance community safety / Projet de loi 105, Loi visant à renouveler le partenariat entre la province, les municipalités et la police et visant à accroître la sécurité de la collectivité.

## TOWN OF RENFREW

**The Chair (Mr Gerry Martiniuk):** Good morning, ladies and gentlemen and members of the committee. This is a continuation of the standing committee on the administration of justice consideration of Bill 105. We are pleased to have His Worship Harold Haramis, mayor of the town of Renfrew, as our first presenter.

**Mr Howie Haramis:** Thank you. First of all, I'd like to make a correction. I've been called many things. It is pretty nice to be called Harold but my name is Howard. Just call me Howie. So we can straighten that out at the start.

I had met with my members of council and the police services board and was asked to bring our feelings to you and to let you know where Renfrew stands. Some of you may not know where Renfrew is. The only time some people find out where Renfrew is is when we're going down to the government and asking them for money. I just want to assure you that Renfrew is very proud to be part of the province of Ontario.

The process we have is that in Renfrew we have 12 constables, a chief, a deputy chief and two civilian personnel. We are proud of our police services board, we're proud of our police service that we have and we work very closely with the community. The community in Renfrew is much different than many communities in the heavy urban areas, in Toronto, Hamilton and various areas. Renfrew is a rural-urban community in a rural setting.

Our crime rate is much different than in Toronto and Ottawa, and thank God for that. We have a nice, peaceful town, but we have a very active town and we have a very active area, which we are very proud of. We work as a family. We work together as one and I am very pleased.

I have a few comments. I don't have anything written down. We support Bill 105, because I was mayor back in the 1960s when John Robarts was Premier and the

municipality had the control of the running of police services at that time through its municipal council.

I am very pleased to see that this government, and I hope all government members, take a look and seriously consider approving this Bill 105 because it's putting the onus back to the people of a municipality who know their own municipality and know how they want their municipality governed.

Especially in the town of Renfrew in our area, we are the ones who will be making the decisions for the betterment of our community and the police servicing for our community. We know what our community needs. We know that budgeting is a very important issue. The town of Renfrew has been hit with \$1 million in downloading from the provincial government and the provincial government has been downloaded from the federal government.

We understand and we are not complaining of that. We have accepted that \$1-million downloading. That downloading affects the police departments. In 1991 the town of Renfrew had a police budget of \$1.4 million with 16 policemen. We are now down to 14 policemen, and thanks to the social contract service at that time put in by the NDP government, we were able to have early retirement for some of the police officers and bring younger ones in.

When I mention appointments to the police services boards, it's very nice to hear that the municipalities will finally have some say as to who is going to be on the board, and because we are the ones who are raising the money from the taxpayers, we are the ones who are going to be accountable. In the system we have now, the service board has the say when it comes to budgeting. I can assure you right now our budget is now at \$1.1 million. Our service is much better than it was when we had \$1.5 million. We have only increased our taxes 4.5% in six years, from 1991. We are running the municipality like a business, the way the province is starting to run the province as a business.

We need your support in supporting Bill 105 because it is putting the politicians, it's putting the police services board into the front lines to listen to the taxpayers who are paying for the service they get. We know the level of service we want for our community and we are completely different than other municipalities, and other municipalities should feel the same way. They have control of the service they're going to get and they're going to pay for.

I'm very pleased to hear that the OPP police services are going to be shared by municipalities who have not paid for policing in the rural areas. We get along very nicely with the rural areas, but Renfrew, through the tax



system, was paying for our own police services and we were also paying, through our provincial grant, our money to the service in the rural area. I'm pleased to hear that the services in rural areas — the town of Renfrew is now negotiating servicing the rural areas through our police services board and through the town of Renfrew. We will have joint committees set up and we're working closer together. It's about time people stopped working apart. It's about time we all started working together, because if we don't work together, we're dead. This is a very good step where it's pulling everyone together, to work together to help and share the services. I'm not going to get into amalgamation because I believe that's coming down the pike later.

To Bill 105, I support it completely, the town council supports it completely and the police services board supports it completely. We agree with it.

Now I understand there are things that are left out, things that should be put in there. I know that, but it's a step in the right direction. I know it took you about a year and a half to get this going. You can't have something perfect all at once, but it's a step in the right direction. You can add and delete and you can go on, but for God's sake, get Bill 105 going. Then when you find you have mistakes, and you're going to make mistakes, but when you find you have an error or you have a problem, change it. When you can add something to it, change it. There isn't anything perfect today that comes out first of all.

To you, Mr Chairman and to the committee, I've pretty well said what I want to say. I'll answer any questions I possibly can. Thank you very much.

**Mr David Tilson (Dufferin-Peel):** Thank you very much, Howie, for your comments. We've just come off two days of hearings in Toronto, and some of the criticisms of the bill that have come to the committee in Toronto is that the police are too involved, particularly in the complaint process. They've suggested that instead of the police being involved, particularly the chiefs of police, the investigations, all of the hearings, everything be done by a civilian group, although they've been very vague as to whether that should be local or whether that should be provincial. If that were to be done in the Renfrew area, would Renfrew have the financial resources or would they have the other capabilities to get involved in the investigations of the policies of policing of the police services board, for example, or with respect to the conduct of police?

**Mr Haramis:** That's a very good point. Yes, we are interested in that. We have council very deeply involved with the police services board, giving advice, but we are setting up a completely separate advisory board and I want to say to you that advisory board is going to be a buffer for the police, the services board and council, and yes, we are setting that up.

One thing I will mention to you is that we have people on over 100 different committees in the town of Renfrew. We don't pay them a cent. People volunteer, but I guess that's what you get in a small community. Yes, I agree. We are setting up a separate advisory board to sort of buffer some of the things with the chief of police, the police board and the council on some of the complaints that are coming in.

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**Mr Tilson:** That's being worked through by the police services board?

**Mr Haramis:** That's being worked through by the police services board.

**Mr Gary Carr (Oakville South):** Thank you very much for your presentation. We appreciate you taking the time to come in. One of the parts of this process is to, as you say, work through it, make some of the details and get them worked out because of course when the legislation passes, although there's a lot in regulation — and we appreciate, especially after some of the days in Toronto, your kind words. Is there any advice you could give in any specific area that we should be doing as we go through the clause-by-clause process to improve the bill even further? You mentioned there are some things to do and so on. Is there anything specific that you wanted to add about what you'd like to see?

**Mr Haramis:** I look at the general picture of the whole. Generally, I like it, okay? Yes, you could maybe do some changes or make some changes, but you're going to have to find that out yourself. You're going to have to implement your situation and do the best you possibly can. That's what I said earlier.

I don't have really any hard time with any part of the legislation. But you're going to make some mistakes, and you have to understand that and you're going to have to make some amendments. It's like any other legislation you put through, whether it's municipal or federal or provincial. You're going to make some mistakes and you'll have to find that out as you go. David had said about the advisory — I think that's a good idea and it can work but it's going to have to be nurtured.

**Mr Carr:** Great. Thank you very much and good luck.

**Mr David Ramsay (Timiskaming):** Howie, nice to meet you. I'm glad you could come out today. You brought up a point that I'm pleased about too, the ability of municipalities to work together. We need more of that. I know in my area there's too much parochialism and it's about time we did start to work together, that's for sure.

I'd like to get a clarification, though, on what you're trying to do there, maybe from ministry staff. Subsection 7(2) seems to say to me that actually one board could not provide all the police services that a municipality is required to provide under section 4. I'm just wondering if that actually means that one municipality could not provide the full services for another municipality. That's my understanding of it. I think police forces can amalgamate under this, but I'm not sure you can just provide police services for the rural area.

**Mr Haramis:** No, no. What we'll do is we'll come to an agreement with the rural area and have them on a joint police service board, and that's what I'm saying, working together. Now, how that fits in, we'll work through the ministry on that. What I'm saying is that we work together in the rural areas or other police services. We don't intend to go in there and say, "We're going to take over your municipality." The services in the rural municipality or that other municipality definitely will not be the same services that we're supplying in the municipality of the town of Renfrew. It is completely separate. Their services will be gauged on the type of service they want

and what we want to go at and how much we're going to charge, but they will be part of that process.

**Mr Ramsay:** Has the town of Renfrew made the calculation so far as to what the cost of the provincial downloading to your town is going to cost you for next year?

**Mr Haramis:** The provincial downloading?

**Mr Ramsay:** Yes.

**Mr Haramis:** Provincial downloading last year was just about \$500,000. Provincial downloading this year was about some \$300,000. We took a hit over the last two years of nearly \$1 million. We don't complain about that. It's going to happen; it could happen again. But we are making sure — we have not laid off. We have been more efficient, and through attrition people come up. Then we get work that way, but —

**Mr Ramsay:** How about for next year? What do you feel your revenue loss from the province will be for 1998?

**Mr Haramis:** About \$400,000.

**Mr Ramsay:** So altogether maybe \$1.4 million over the last three years?

**Mr Haramis:** Yes, we're thinking about \$400,000 next year. But don't forget, and I want to point out, Mr Chairman, and to David, the town of Renfrew was hit very hard in the 1990s. We lost eight industries, with 1,700 people unemployed. In 1971, the town of Renfrew had 9,000 people. I was mayor then. I took a heart attack and got out of politics and now I'm back in. I'm a recycled mayor. Anyway, we now have 8,000 people in the town of Renfrew. All the plants are filled, thanks to the previous government and thanks to this government for working hard with the town of Renfrew getting those people employed. But the only reason we can hold our own now is because we got our assessment up, we got people back to work and we're working together as a family, and because we're working together as a family, we can do this.

**Mr Ramsay:** Great. Thank you very much.

**Mr David Christopherson (Hamilton Centre):** Thank you very much, Howie, for your presentation. That's an easy name for us to use in this caucus. I want to draw your attention to the Ontario Association of Chiefs of Police, which made a presentation yesterday in Toronto. In there they say:

"The proposals to give the municipality the balance of power on police service boards is a disappointment to our members. We recognize the 'politics' involved and while we are grateful that boards remain, we are concerned that this decision will lead to greater political interference in the day-to-day operation of police services."

That's the chiefs of police, their association. How would you respond to the concerns they've raised?

**Mr Haramis:** Our chief of police does not have a problem. I don't know what they've put in as of yesterday. I said in the 1960s the municipality did not have a problem of political interference by the councils. We will not have political interference by the councils, but we will have closer communication, because some people who get appointed by the province, who don't know squiggly-dot about what they're going on for, they seem to get a badge or they seem to get authority and they

seem to clean wingding. This other way, the municipality can control it a lot better. Our chief of police and our police department are much happier with this control. Maybe you have a problem with the larger centres, I don't know, but I know for Renfrew, and I'm speaking only because of Renfrew, I feel we have a real good niche there.

**Mr Peter Kormos (Welland-Thorold):** Thank you, Howie. The issue of the adequacy of police forces has recurred over the last couple of days and I'm sure will recur today, tomorrow and over the next few weeks. I heard your comments about Renfrew's interest in controlling the design of its police services. Do you believe there should be any overriding authority, by let's say the OCCPS, to tell you that your services are perhaps inadequate and that the council and the police services board of Renfrew fell short of the mark?

**Mr Haramis:** If we have a problem, if we are running a terrible force, I don't have a problem with that. But when we're running well, we have the budget, we have the money and we don't have any problems, I have a problem with someone coming in and saying, "Because we had a problem in Oshawa and because we had a problem in Belleville, you're going to have a problem in Renfrew." I don't like anyone coming into our community and saying we should do something because somebody else is doing something.

**Mr Kormos:** Do you think that the police association for the town of Renfrew, the association representing the police officers, should be able to dispute the police services board's opinion as to adequacy of service and —

**Mr Haramis:** I think everybody has the right for that if we're doing a bad job, if it's something really that needs to be done. I'm saying there are good boards and there are bad boards. We all can't have a perfect board and we all will make mistakes. But there's what you call communication and negotiations, and once communication and negotiations break down, then you have a problem, and we don't have that problem.

**Mr Kormos:** You've got two fewer police officers now, if I heard you correctly, than you did just a short while ago.

**Mr Haramis:** That's right, but in 1970 we had 10 policemen with 9,100 people living in the town of Renfrew. Now we have 12 policemen, and a chief and a deputy chief — that's 14 — for 8,000 people and the same area.

**Mr Kormos:** Have you talked about your point of view and the council's point of view and the police service's point of view with the police association of Renfrew?

**Mr Haramis:** Yes, we do talk, the police association and the police services board, and I haven't had any complaints.

**Mr Kormos:** Okay, no quarrel. Thank you, sir. I appreciate your coming here.

**The Chair:** Thank you very much, your worship, for attending here today.

**Mr Haramis:** It's a pleasure. I want to thank you very much and wish you well in your deliberations and your hearing of Bill 105. Thank you very much for the opportunity. It's a pleasure. Keep up the good work.



**Mr Kormos:** If I may, Chair, I am especially grateful for the mayor's comments about the provincial appointments. He and I are in entire agreement, at least in some respects, in that regard.

**Mr Haramis:** The municipality will have the majority, though.

**Mr Kormos:** That's right.

**Mr Haramis:** I don't have a problem with that at all.

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PERLEY-ROBERTSON, PANET,  
HILL AND McDUGALL

**The Chair:** Our next presentation is Ms Linda Bordeleau. Welcome, Ms Bordeleau. You have 20 minutes for your presentation, including questions. I'd ask you to proceed with your presentation.

**Ms Linda Bordeleau:** Thank you, Mr Chairman and members of the committee. I'm speaking to you as a lawyer with the Ottawa law firm of Perley-Robertson, Panet, Hill and McDougall. The majority of my practice involves police governance issues from a management perspective. I am also involved in the police discipline regime as a prosecutor.

I would like to address the committee on various areas of the bill in light of my experience in working with various police services in eastern Ontario. I'd like to briefly address six specific areas of concern: One is municipal agreements to share policing; the second is part-time police officers; the third is the issue of discipline for unsatisfactory work performance; the fourth is the informal discipline regime; the fifth is discipline for off-duty conduct; and the last issue is the increased type of penalties that are now available or would be available under this bill on a finding of misconduct. My comments will address both positive and what I consider to be negative aspects of the bill.

Turning to the first issue, which is municipal agreements to share policing, it's my submission that Bill 105 threatens the continued economic viability of numerous small municipal police services throughout Ontario. With the proclamation of Bill 105, all municipalities except those exempted will be subject to the obligation in section 4 of the act to provide adequate and effective police services regardless of size. Section 5 of the act provides the methods by which a municipality can fulfil its responsibility in this regard. The failure of a municipality to address this obligation will result necessarily in the Ontario Provincial Police having jurisdiction in the area through section 5.1.

I won't review the options that are available to municipalities under section 5. I would like to go on to state, though, that it's been said that municipalities under Bill 105 are given greater flexibility in how they can meet their obligations to province police services. While it is true that the form of police services is not mandated by the province, the options, in my submission, are really limited. They're limited by the deletion of one specific method, and that is the ability of a police services board to enter into an agreement under section 7 to share police services in their entirety.

The old act provided that such agreements could satisfy the responsibility for providing police services.

Now you have section 7(2) of Bill 105 that specifically prohibits one municipality from providing full police services to another. The combined effect of section 5 and section 7(2) threatens the survival of small police services. The section operates to restrict the ability of such services to expand into new jurisdictions for effectiveness and efficiency. It limits their ability to compete with the option of contracting with the Ontario Provincial Police. It's not so simple as simply entering into a contract with a municipal police services board. You have to go to the options in section 5 and essentially set up a joint board and establish a new police service, if that's one of the options you wish to choose, assuming there is no municipal police service in the jurisdiction that is now having to satisfy its obligations under section 4.

A further limitation on the authority of municipal police services is seen in the creation of joint boards as provided for in section 33. In the old act, agreements to create a joint board required the authority of those boards. This is no longer the case. The establishment of joint boards only requires the authorization of councils and approval of the Solicitor General. The council can then determine the composition of a joint board.

It is my submission on this issue that if you see fit to amend section 7 with regard to broadening the ability of a municipal police services board to contract out its services, then a corollary to that is to amend section 5 to allow that ability under section 7 to satisfy the obligations. Merely broadening section 7 would not resolve the problem in freedom to contract those services.

The second issue I would like to address is that of part-time police officers. This is an issue that I've been dealing with over the last two years with some small rural police services.

It's my submission that Bill 105 really should address the issue of part-time police officers. The current act does not preclude a municipal police service from hiring police officers for a contractual term. The only statutory limitation right now is within section 44 of the act, whereby a probationary officer must complete the initial period of training at the Ontario Police College within six months of the date of appointment. So if you hire a part-time police officer, that person must be trained at the Ontario Police College when you hit the six-month period of time. There are no other policing standards prescribed either by the Ministry of the Solicitor General or otherwise which address any further prerequisites to the hiring of part-time police officers.

Bill 105 makes no changes to this area. It is left as an issue to be negotiated between police associations and police services boards. Where that might be seen as a positive aspect, it's my submission to the committee that there are various fundamental issues that should be addressed by way of legislation and not left to a contractual negotiation between the employer and essentially the employee.

The following are some of the issues that I raise to you that are sort of left out there to be determined.

One is, under what circumstances can part-time police officers be employed in municipal police services? Is it tied to any loss of operational strength by reason of illness, disciplinary suspensions, secondments or special investigations?



What are the criteria for hiring? Right now, all you have are the basic criteria set out in the act, where you have to be over 18 years of age, a citizen of the province of Ontario and have a secondary education.

Must the individuals be trained at the Ontario Police College prior to coming on board? Can they be retired police officers? What training should be provided to these part-time officers by the police service before they get on the road to deal with the public? Right now, it's left to the police service to determine what, in their capabilities, they should be providing to those individuals who they're bringing on on a part-time basis.

It's my submission that this area cries out for prescribed standards. It is submitted that it's not sufficient to set out such standards by way simply of ministry directives in terms of policing standards unless there is truly a legislative framework to direct or focus those directives or standards.

A third issue flows into the discipline regime that's now being amended through Bill 105, and that's the concept of unsatisfactory work performance. Bill 105 introduces true labour law principles into the statutory discipline regime. I think that's a positive thing. Historically, police officers have been subject to discipline only if the conduct falls within one of the listed misconduct offences in the code of offences that is prescribed by way of regulation.

The use of unsatisfactory work performance as a basis for discipline should provide greater latitude to deal with employment/labour-related issues involving police officers where the conduct does not constitute misconduct as defined by the code but still requires a forum in which to deal with this. Right now, you really don't have a great deal of flexibility even by way of your collective agreement to deal with these types of issues, so I think it's positive to bring in these criteria. As well, the stigma of a prosecution is removed because you're not classifying unsatisfactory work performance as a misconduct offence. It's separate and apart from that categorization under the bill.

It is my submission that the concept of unsatisfactory work performance should remain undefined in the legislation and really left to the individual police agencies to define by way of internal police policies. Unsatisfactory work performance is not a new concept in terms of labour law and it's definable by way of your local practices and your local issues, as well as arbitral jurisprudence that has developed over decades. I submit that it doesn't create a major stumbling block to have this undefined in terms of the legislation. I think a precise definition of what constitutes unsatisfactory work performance is quite difficult to achieve because it essentially encompasses a broad range of factors in the workplace.

The true benefit of the introduction of unsatisfactory work performance as a basis for discipline is the ability to invoke the labour law principle of progressive discipline. This principle contemplates the review of a pattern of performance in light of a culminating incident. This allows for a greater significance to be placed on the culminating incident in light of the past employment record of the employee. I see one problem with Bill 105, and that is that the use of progressive discipline is limited

as a result of the structure of the informal resolution process.

What I am talking about in this, and it flows into my fourth issue, is that if you don't have the ability to have a recording of an informal resolution to a discipline matter, then there's essentially no past employment record to look for. So although it's a great benefit to have unsatisfactory work performance built into the legislation, the whole theory behind that concept is in my submission diminished if you can't look at a pattern of misconduct.

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It's my submission that in the informal resolution part of the bill you allow for a recording of the disposition, where there's an admission of responsibility by the officer, and have that subject to expungement within the same two-year time frame as expungement would occur for an informal disposition. Right now, what you have in terms of your informal route of discipline is the discrepancy between how you deal with a result by way of an informal resolution and an informal disposition. My submission on this is that to really give teeth to the concept of unsatisfactory work performance and progressive discipline, if that's what you're looking to do, then a necessary fact underlying that is to allow a record to build for a reasonable period of time, and it's my submission that two years is reasonable to allow a documentation to remain on the record.

I think I've addressed my fourth point through those comments. I just have a few additional points on the issue of informal discipline.

The way the bill is drafted in terms of an informal resolution, it's unclear whether the chief of police must pursue or attempt an informal resolution prior to invoking informal discipline. There are references to attempts made at informal resolution, and in my submission it's unclear whether that route has to be taken prior to invoking the informal discipline.

The penalties that may be imposed by way of informal discipline include those described in clause 67(1)(e) and any other penalty described in subsection 67(4). It is unclear whether the penalties under subsection 67(4) stand alone. It is submitted that the legislation could read in this regard "and/or," so that you have an ability to deal with the time deduction as well as any specific conditions to be imposed in light of that.

The penalties available are up to five days or 40 hours of pay; a deduction or forfeiture of that amount of time. The application of time from a time bank or accumulated time is not an option, and it's submitted on a technical basis that clause 67(1)(f) should be amended to include an option to permit the officer to apply time off to fulfil any discipline penalty in this regard.

A fifth issue on the discipline end is that of off-duty conduct. The present bill, of course, doesn't specifically deal with off-duty conduct. It's been the jurisprudence of the civilian commission that a police officer is subject to a disciplinary review for off-duty conduct, and of course there has to be a connection of that conduct to one of the prescribed listed offences in the code of offences. What it truly comes down to is the reputation of the police service in light of that off-duty conduct and perhaps any neglect of duty that would arise, because once a police



officer, always a police officer, essentially, in terms of your actions.

Subsection 73(2) of Bill 105 provides that, "A police officer shall not be found guilty of misconduct if there is no connection between the conduct and either the occupational requirements for a police officer or the reputation of the police force." My submission is that this is an acceptable concept, and that truly is the concept today in terms of prosecutions of off-duty conduct issues. But it's my submission that it's inappropriate to have the actual bill address this issue separate and apart from the regulation dealing with the discipline. It's my submission that it's best factored into whatever changes are going to be made to the code of offences, because without having these criteria built into the regulation, it leaves discrepancies possible in terms of describing the code of offences in terms of off-duty conduct.

The sixth point is the right to grieve informal dispositions. This is another example where true labour law principles are introduced into the bill. Bill 105 has introduced the right to grieve an informal penalty disposition. The arbitration process is not governed by the Statutory Powers Procedure Act but will adhere to arbitral jurisprudence and principles. It is my submission that this is not a negative feature of the bill. The police officer will be accorded the same rights as any employee using a grievance arbitration process. This is not a process without protections or safeguards. So in my submission, the right to grieve without any further preconditions set out in the bill is not a bad thing.

My last point is in terms of penalty options set out in subsection 67(4). This subsection provides for the ability of a chief of police to impose a requirement that an officer attend counselling, treatment or training or participate in specified programs or activities. These programs could involve anger management, gender or race sensitivity issues, drug and alcohol abuse counselling as well as others. It's my submission that this is a positive aspect of the bill, as presently the imposition of such a penalty is really a matter of negotiation in terms of a negotiated resolution of a discipline matter. It's not available or it shouldn't be available to a hearing officer under the current act to impose such a penalty. But certainly it's always available to the representative of the chief and the officer to agree to the inclusion of this type of penalty. So it's positive to have this built into the legislation.

There are problems, in my submission, though, to the inclusion of these penalties. It remains unclear what, if any, effect there is of a failure to comply with this type of sentence. There appears to be no remedy for non-compliance.

It is my submission that a strengthening of this provision would be warranted to the following extent: perhaps to require the production of reports prepared through the process in terms of any counselling options, subject to the consent of the officer, as there are confidentiality issues associated with such reports; to require the officer to re-attend before the chief or hearing officer if there is a failure to comply with the sentence; or to provide a further penalty if the original sentence is not carried out, or a contemplation of a failure to comply with that. I don't know if that will resolve the issue or the problem

with forcing compliance with this type of penalty, but perhaps it will provide an incentive to go through what really is a positive aspect in terms of counselling as an available option.

Those are my submissions. I thank the committee for allowing me to present what are my issues in terms of my experience in dealing with police services in this area.

**The Chair:** We have one minute per caucus and we start off with Mr Ramsay.

**Mr Ramsay:** Thank you very much for your presentation. I'd like to take you back to page 3 and ask you, and maybe at the same time I might be able to get a clarification from the ministry in the next few days, why there is this restriction on the ability of such police services to expand into new jurisdictions that you say would give some effectiveness and some efficiency.

**Ms Bordeleau:** I don't understand why that restriction is there. I don't understand why there's a fundamental change from the old act where you have your prescribed methods to satisfying your responsibility to provide adequate and effective policing in section 4. Why is that limited in such a way as is prescribed in section 7(2)? I think it's deceiving. Because there's not a reflection of that restriction specifically in the bill, it's hard for a lot of area police services to understand the effect of this limitation. The thrust of it is, you can't contract out your services similar to what the OPP can. It's not as simple as that, as entering into a contractual relationship. I think the methods set out in section 5 create more of an onerous process to go through the matter. So I don't know why there is such a change in direction from the old act in Bill 105 in this regard.

**Mr Kormos:** First, with respect to that concern about section 5, it appears that the revenues generated by the OPP when they're doing contract policing are going to flow to the consolidated revenue fund. One wonders if the government is doing à la post office, basically creating a monopoly for itself in terms of providing —  
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**The Chair:** Mr Kormos, could you move to the microphone? We can't hear you up here.

**Mr Kormos:** But Ms Bordeleau was doing fine.

**Ms Bordeleau:** I'm hearing you, yes.

**Mr Kormos:** Thank you.

**The Chair:** I'd like to hear you too.

**Mr Kormos:** One wonders whether they're creating a monopoly for the provision of OPP services to those communities that would otherwise contract with adjoining municipalities.

**Ms Bordeleau:** To be perfectly frank, I see that as an effect of these changes certainly. In light of the changes to Bill 105 and the changes to the Municipal Act, you're now seeing a lot of amalgamations going on where these townships are in the process of amalgamating and as well are having to fulfil their responsibilities as of January 1, 1998, if this bill goes through. Certainly the coupling of these two pieces of legislation makes it difficult for municipal police services to survive and really, from a practical perspective, makes it easier for the OPP to come into the area. Whether that's a bad or good thing, I'm speaking from the position that municipal police services should be allowed to survive and compete fairly.



**The Chair:** If we can move on, Mr Carr.

**Mr Carr:** Thank you very much for obviously a great deal of work done very thoroughly. I appreciate it. I want to get to page 5, regarding the informal versus the formal. If something will be used against a police officer during the informal — and I know you're saying you could take it out of the file in two years — it seems to me that may lead to a lot of them saying, "We're not going to go to an informal hearing." Why wouldn't that be the case? If you knew it was going to go in the file in the informal, why would you go to the informal? I think a lot of people would rather it be dealt with in the informal, if it can, on the non-serious, but why would anybody go through the informal if it's potentially going to be used against them later on?

**Ms Bordeleau:** I guess that is a factor that would preclude an officer from consenting to such a process, but I'm not sure whether consent is really required to invoke that informal resolution. I think how you have to look at this is as you would in any other workplace, separate and apart from policing issues. Can there be an agreement not to record a penalty in your employment record? I guess that goes down to the specific provisions of a collective agreement if you're not looking at the Police Services Act.

My submission remains the same in terms of limiting the use of progressive discipline. Right now, when I see the informal resolution process, there's really no incentive right now for an officer to consent to such a process. Your point is well taken.

**Mr Carr:** Thank you. Good luck.

**The Chair:** Thank you very much. It's obvious that a fair amount of work has gone into this presentation, and we appreciate it in assisting us in our deliberations.

#### OTTAWA-CARLETON REGIONAL POLICE ASSOCIATION

**The Chair:** Our next presentation is the Ottawa-Carleton Regional Police Association, Mr John Petersen. Welcome, Mr Petersen. We have 20 minutes allotted for your presentation. I note from your brief and from the number of pages that you may be somewhat rushed. I'll give you a signal at the five-minute mark.

**Mr John Petersen:** Thank you very much. Mr Chairman, members of the committee, good morning. My name is John Petersen. I am president of the Ottawa-Carleton Regional Police Association. I spent over 22 years as a police officer with the former Ottawa Police Service and now the Ottawa-Carleton Regional Police Service.

This morning I'll be joined by John Miller, who is the chair of the board of directors of the Police Association of Ontario and an executive officer with the Ontario Provincial Police Association and is a police officer with the Ontario Provincial Police. John is on my extreme left, and right next to me on my left is Rick Houston, who is the executive manager of the Police Association of Ontario, formerly a police officer with the Windsor Police Service. Also joining me will be Brenda Lawson, who is a member of my board of directors and a member of the board of directors of the Police Association of Ontario.

The recent amalgamation of the Ottawa-Carleton Regional Police Service now makes this police service the third largest municipal police service in the province of Ontario. The Ottawa-Carleton Regional Police Association, with over 1,200 police and civilian members, is a member of a larger organization, the Police Association of Ontario, which represents approximately 23,500 police officers and civilian members across the province.

You have heard from a number of my colleagues from around the province over the past two days and undoubtedly you'll hear more from us in the future with respect to Bill 105. Given the time constraints for our presentation, it is not possible to adequately deal with the impact of all the proposed amendments. Therefore, today I will concentrate on the informal resolution of public complaints and the restructuring of police services through amalgamation.

Informal resolution: In 1996, members of the Ottawa-Carleton Regional Police Service handled 244,993 calls for service. That does not include self-initiated contacts, such as traffic stops. Based on nearly a quarter of a million calls for service, only 249 public complaints were received by our professional standards section in 1996. Of these 249 public complaints, only one proceeded to a disciplinary hearing. It's important to make note of the fact of one complaint for every thousand calls for service, and of all the complaints received in 1996, only one went to a disciplinary hearing. I've attached the local statistics at the back for your perusal.

Bill 105 imposes restrictions on the informal resolution process which will prevent complainants and police officers from resolving complaints in an open, efficient and cost-effective manner. A more cost-effective and results-oriented process must be introduced, with the necessary safeguards for police officers and complainants.

Last summer, stakeholders at the police summit, in conjunction with the Ministry of the Solicitor General, joined in discussions on how the province could improve policing. Many of these recommendations have been adopted; some were not. The informal resolution process seems to have been left out or overlooked.

As part of the complaints mechanism, the Police Services Act outlines a process whereby complaints can be resolved through informal resolution. Currently, the provisions of section 83 in the act provide for the use of informal resolution at any time, including the investigative and the hearing stage. I've provided the relevant sections for you. I ask you to make note of the fact that consent is the key word in what's currently in the legislation, and also make note of the fact that it can be resolved even at the board of inquiry stage.

To contrast this with what's being proposed, I want to point out that the only opportunity for informal resolution as proposed in your amendments is in the not-serious category, as deemed by the chief of police.

The current provisions of the Police Services Act facilitate informal resolution of serious allegations, with the consent of the complainant, the police officer and in some cases the complaints commissioner, depending on the stage the complaint has reached. By way of example locally, informal resolution has resolved the public complaint at the board of inquiry stage, saving consider-



able money in the process and satisfying the parties. I refer to the Gardner board of inquiry, which was successfully brought to a conclusion in 1995 while the board of inquiry was in progress. It generated a lot of media attention in this area and throughout the province.

The Gardner board of inquiry stems from a 1991 drug raid which involved the Ottawa police, at the time, the Nepean police and the OPP, and which resulted in the shooting of Vincent Gardner, who later died. Following an unsuccessful criminal prosecution of a police officer for manslaughter, the Gardner family made a public complaint that over a period of four years took many twists and turns but finally was heard by a board of inquiry. After two weeks of hearings before the board of inquiry, which was scheduled for several more weeks, the proceedings were stopped. As a result of an informal resolution between the parties, which had the consent of the police complaints commissioner, the opportunity to informally resolve a public complaint, which would have undoubtedly been deemed serious under the proposed amendments to the Police Services Act, brought the matter to a conclusion, saving the parties considerable anguish and the taxpayers considerable money. In our estimation, the continuation of that hearing would have cost the taxpayers in excess of \$1 million.

There is a demonstrated need to provide the opportunity for informal resolution at all stages of the public complaints process. Again by way of example, a police officer with the Ottawa-Carleton Regional Police Service had been charged under the Police Services Act and was notified that the punishment sought, in case of conviction, was a reduction in rank or dismissal, thereby putting this in the serious category in accordance with the amendments to the new act. Early in 1996, prior to the Police Services Act hearing being concluded in this matter, the informal resolution process was successful in bringing about a resolution acceptable to both the complainant and the police officer, subsequently leading to the charges being withdrawn. With the proposed amendments, this opportunity would not have been open to the parties in this case.

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Through the entire public complaints process the merits of a complaint may rise and fall as facts unfold and shed light on the substance of a complaint. Quite often complaints thought serious at one stage in the process, with new evidence and information may be deemed less serious. This quite often happens at the hearing stage, where the merits of a case are put to the test. We ask that you not close the door at any stage of the public complaints process to informal resolution.

Most public complaints are as a result of a lack of understanding of a police officer's legislated duties and responsibilities. The informal process provides the complainant and the police officer the opportunity to discuss their differences, perhaps offer their apologies and attempt to understand each other's point of view in the future. Surely the informal process is the most desirable and least expensive option to deal with situations that flow from a moment of frustration or a lack of understanding. We ask that you not force the parties into an adversarial hearing process without providing them with the opportunity to find their own solution. Giving the

parties an opportunity to find a meaningful solution to a public complaint, if successful, will leave the parties with the highest level of satisfaction.

We are also of the view that the stakeholders, parties, should be provided with all the notices dealing with the status of the complaint as well as a copy of the final report. Under the proposed amendments, a police officer would not be provided with this information. This information in the hands of the police officer and the complainant will lead to a better understanding of the situation and therefore be more conducive to a successful resolution.

The proposed amendments preclude the opportunity to informally resolve a public complaint prior to the conclusion of the investigation. Completing the investigation would have been a complete waste of time in a situation where it could have been resolved prior to that. The opportunity to informally resolve at the earliest stages, in our view, is most desirable.

Currently, without-prejudice statements made by the complainant or the police officer in an attempt to resolve a matter informally cannot be used later in evidence. The current protection is set out in section 96(6), which we've indicated. It's key to note that currently it indicates at the very end, "except with the consent of the person who made the statement." In other words, you require the consent of the police officer or the complainant in order for it to be used at a subsequent hearing.

The proposed amended section 68(8) must be changed to provide critical protection for both the police officer and the complainant to facilitate the successful completion of the informal resolution process. The following proposed amendment serves as a disincentive for the police officer to enter into the informal resolution process, which could result in the statements being used at a subsequent hearing if the informal resolution fails.

Again, in proposed section 68(8), I point out to you the last sentence where the exception to the rule is "at a hearing held under this part," which means the statement given in an attempt to informally resolve a dispute could be used at a Police Services Act hearing. If this amendment is not changed, any statement made by a police officer in an attempt to informally resolve could be used in a subsequent hearing under the Police Services Act.

The informal resolution process as set out in Bill 105 is flawed for a number of reasons:

- Can only occur at the conclusion of the investigation.
- Restricted to non-serious allegations.

- The chief can attempt a resolution without the consent of the officer.

The penalty available to the chief of police is severe: five days' or 40 hours' pay. It's important to note it's pay, it's not time off.

There is no provision for a reprimand or admonishment.

An entry can be made in the employment record even if the matter is in dispute.

The officer must resort to the costly and time-consuming grievance and arbitration process to appeal any discipline.

There is no protection for without-prejudice statements made by the officer or the complainant in an attempt to resolve the matter informally.



The informal resolution guidelines as set out in the current legislation, with necessary modifications, can be used to achieve a process which is a cost-effective and efficient method of resolving complaints. The following should be adhered to:

May be attempted at any stage of the process.

Not confined only to minor allegations.

Must require the consent of the police officer and the complainant.

Must provide full protection for statements made in an attempt to resolve the complaint informally.

Restore the discipline process available under section 59 of the act, as opposed to the more costly arbitration process.

Allow for a police officer to be reprimanded instead of or in addition to a penalty.

Allow for a maximum penalty of two days' time off.

The act should prevent an informal resolution from being used against an officer or an entry made on an employment record where misconduct has not been established.

Informal resolution should be an option at every step of the public complaints process. Public complaints should have the opportunity to be resolved informally to the mutual satisfaction of the police officer and the complainant.

In the field of labour relations, which is something we deal with quite extensively — and as a matter of fact, it's mandatory in the act that we go to conciliation — in rights disputes or interest disputes, the parties are compelled to go to mediation or conciliation to resolve an impasse before resorting to third-party binding arbitration. The rationale for this is the firm belief that the best possible resolution is one the parties mutually agree on, and that's an accepted standard.

The same principle holds for public complaints. The best resolution is the one the police officer and the complainant mutually agree upon. The alternative to informal resolution would ultimately drive the process into the hands of lawyers, arbitrators and adjudicators, at considerable expense to the parties and the taxpayers.

Police officers across the province of Ontario must be able to do their jobs without fear of reprisal and without losing the protections contained within the Police Services Act. Bill 105 in its current state does not provide the opportunity for informal resolution at all stages in the public complaints process nor does it provide the protection for without-prejudice statements made in an attempt to informally resolve a complaint.

Public complaints should have the opportunity to be resolved at the lowest possible level, without getting into costly hearings that tend to cause public complaints to take on a life of their own. We've too often seen that public complaints, once tossed into a hearing process and into the public domain, take on a life that goes on for years, as in the Gardner board of inquiry. We are not asking that the informal resolution be mandatory. We are simply requesting that you leave the door open and provide the opportunity for the informal resolution process to work at all stages in the public complaints process.

Amalgamations: We in Ottawa-Carleton have recent and ongoing experience with the amalgamation of

policing services. Bill 143 is an act which, among other things, amalgamated police services in Ottawa-Carleton. Bill 143 was enacted following many studies on the feasibility of amalgamating police services in Ottawa-Carleton, the last of which was the Kirby report. The first stage of regionalization or the amalgamation of policing services in Ottawa-Carleton entailed merging the Nepean, Gloucester and Ottawa police services. Currently the rest of the region is policed by the OPP. During the next two and a half years the Ottawa-Carleton Regional Police Service will be taking over those areas policed by the OPP.

Ottawa-Carleton is the latest of several amalgamations of policing services in this province over the last 30 years. There are many lessons to be learned from the amalgamations that have taken place to date. In all cases there was legislation creating the amalgamation, identifying the time frames, process and safeguards to facilitate a fair and orderly amalgamation. This was the case with respect to Ottawa-Carleton in that Bill 143, the governing legislation, provides most of those safeguards.

I understand that the proposed amendments to the Police Services Act contemplate restructuring of policing in this province to increase efficiencies and effectiveness as well as to provide the opportunity to reinvest savings from restructuring in front-line policing.

However, the proposed amendments do not provide the necessary safeguards to facilitate fair and orderly amalgamations. Our experience with amalgamation tells us that absent legislated safeguards and guidelines, merging existing police services will only create a larger organization that is less effective and efficient. For members of a police service to buy into the amalgamation process, there is a need to offer some basic assurances that will make them feel comfortable and secure in the new organization. Those safeguards and assurances need to be identified and entrenched in legislation so that the stakeholders know all the rules up front. Amalgamation of existing police services should not be a hit-and-miss process that is full of surprises.

I know I'm running short of time here, so I'm going to skip over some of this and get to the highlights.

#### 1100

In Ottawa-Carleton, Bill 143 provided for the appointment of a committee that stood in place of the police services board. The committee was called a planning committee. Unfortunately, that planning committee was not in place until three months prior to — I think the intent of the legislation was to have that planning committee in place long before, but unfortunately that didn't happen. As a result, that three-month period between the effective establishment of that committee and the actual amalgamation, which was January 1, 1995, did not provide enough time for the committee to, first of all, hire the chief deputies and negotiate common collective agreements.

The Ottawa-Carleton Police Service for the longest time, and still to this point in time, has several collective agreements that are carryovers from their former police service. To illustrate the point, a year into amalgamation we had three civilian agreements, we had three police agreements and we had three senior officers collective



agreements. A year ago the police agreement was negotiated. Two years and three months into the amalgamation process, we are still without a common civilian collective agreement.

The point I want to make on this is the fact that we have people working within the same organization doing exactly the same work, working beside each other, with different levels of salary and remuneration under different terms and conditions of employment. It's critical that we establish a committee that stands in place of the employer, the police services board, 18 months prior to the actual amalgamation taking place. The problems that are caused by the lack of a common collective agreement are not only problems for the association but they're major concerns for the chief as well. It poses a serious problem to his ability to manage the organization.

I think it's critical that there are guarantees entrenched in the legislation to guarantee rank, seniority, to ensure there's no loss of benefits or salary. The same should apply for the OPP in the event that they are the ones being merged.

I won't read the recommendations. There are 10 recommendations set out for you. I'll leave them to you, but I will conclude by saying that to ensure an orderly merging of existing police services it's critical that the members who provide the policing service be given the necessary safeguards and protections. The people who protect you need the confidence of knowing that their basic rights are going to be protected during the amalgamation process.

**The Chair:** Thank you. Your time has elapsed. I congratulate you on your amalgamation. I went through the same thing in the region of Waterloo on the police services board in 1971 and I know how difficult it is for everyone involved. You obviously have done it successfully, with a few loose ends. I thank you for your presentation here today.

SUSAN McNAB  
RUSSELL NORRIS

**The Chair:** The next presentation is Susan McNab and Russell Norris. Welcome.

**Mr Russell Norris:** Good morning. Thank you for hearing our submission. It has been 31 months since our son Shayne was killed by OPP Detective Constable Loranger. Since that time we have been exposed to an ordeal that no member of the public should have to endure.

It started with an SIU investigation that took some 30 days before the laying of criminal charges, which in turn involved us in dozens of meetings with SIU investigators, ultimately leading us through the criminal justice system.

It was as a result of an SIU meeting that I became aware of the PCC. This was some two months after Shayne's death. Had I not attended this public forum, I may never have known that I had the right to file public complaints.

After careful consideration, I filed several complaints against the parties involved. As a result of those complaints, we have now been through three of the five processes currently available. One of those was a public

hearing that we had to endure for some nine months, 41 days of testimony, which saw Detective Constable Loranger being fired from the force. It is currently in the appeal process.

One of our complaints has been successfully resolved through the mediation process. Another of our complaints is currently at the board of inquiry stage, although it is hoped that we can resolve this matter as well through mediation. It is important for you to know that we have initiated both of these processes and that we were assisted by the PCC in resolving these matters.

As a result of what we have endured and the knowledge we have attained, we feel not only qualified but morally obligated to speak on the proposed Bill 105.

**Ms Susan McNab:** Again, thank you for hearing us today.

The current government introduced, on January 14, 1997, proposed changes to the Police Services Act which, if enacted, will not meet the needs of the general public with relation to public accountability. In fact, the changes will be a step backward in the area of complaint intake and the duplication between agencies. The Harris government promised a more streamlined, fair and responsible process, yet specific concerns have not been addressed. Therefore, we would like to address our comments to you for your action.

The proposed changes do not address the problem and concern that police officers who have been found guilty of misconduct and subsequently dismissed are still subject to all the salary and benefits of their position while they exhaust the appeal process. Section 36 of the Police Services Act must be changed to read that the salary and benefits of a police officer who has been dismissed from the police service will be terminated immediately upon the imposition of the penalty. Should the officer later win on appeal a reversal of the decision to terminate employment, the police officer must then receive all salary and benefits retroactive to the date of the original termination. If the current proposed legislation is passed, this issue will not be addressed. Where is the fairness, responsibility and accountability to the public?

The legislation does not address the fact that the special investigations unit does not have the power to compel an officer or officers to provide statements to them during their investigation. This has led to problems in the past, not to mention lengthy delays. This issue must be dealt with immediately. Police officers are citizens and have the right to remain silent and obtain legal counsel. However, no other type of employment affords a person the powers that policing does on a day-to-day basis. Their employment is extremely unique. A police officer has the extraordinary authority to deprive a person of their civil liberties and to cause injury or death in exceptional circumstances.

It is therefore essential that the Police Services Act be amended to state that police officers involved in situations where injury or death has taken place provide statements relative to the investigation into that specific incident immediately to the special investigations unit. Refusal to provide information to the SIU will result in the police officer being removed without salary and benefits from his/her position with the police service until

such time as they provide a statement. If the current proposed legislation is passed, this problem will not be addressed. Where is the fairness and responsibility to the public?

1110

At the present time, SIU investigations are not bound by legislative time frames and the results of their investigations are not always readily and easily available to members of the families most affected by the incident under investigation. Members of the public, including community groups, have been asking for legislated time frames, for example, a written progress report every 30 days. These groups have been asking for more accountability to family members and access by family members to all investigative material gathered during their investigation. If the current proposed legislation is passed, neither of these two issues will be addressed. Where is the fairness to the public and the accountability?

At the present time, there are some legislated time frames for police services to provide reports to complainants involved in the public complaint process. Some police services do not adhere to these time frames and there is no legislated punitive action when this occurs. If the current proposed legislation is passed, police services will still not be subjected to penalties when the few time frames imposed in the legislation are not met.

The proposed legislation does not address the continuance of duplication between the special investigations unit, the new proposed Ontario Civilian Commission on Police Services and the professional standards sections of the Police Services Act. At the present time, all three of these agencies can be involved in a single incident. Even though their mandates differ, it does not change the fact that three agencies may investigate the same incident. The SIU will ask for statements from witnesses, subject officers etc, and so will the other agencies. If the current proposed legislation is passed, this duplication will not be addressed. Where is the streamlining?

The proposed changes do not address regional issues or how the new Ontario Civilian Commission on Police Services will operate. This new organization should be responsible for the taking of all public complaints against police and then forward these complaints, unless involving serious injury or death, to the applicable police service for investigation. The investigation of these complaints must be monitored and tracked by the new organization. The only exception would be complaints involving two or more police services, and these will be investigated by the new civilian oversight organization. The head of the new organization shall have the authority to direct the course of the investigations or take over an investigation if he or she feels that there are problems with the investigation being conducted by a police service.

The chief of police will adjudicate on the disposition of the cases investigated by his or her police service and the new oversight agency will have the power to review the decision reached by the chief of police at the request of a complainant or police officer. It is important that this new organization have the authority to impose or remove penalties following the review, and that this organization also have the powers to take punitive action when a

police service is not in compliance with legislated time frames.

It is important that this new organization have some regional presence to ensure investigations are timely and to better serve members of the general public. Areas of the province with high rates of public complaints, SIU investigations and/or review requests must have a regional presence.

It is also important that this new organization have an intake officer available to assist members of the general public with their complaints. The general public are not always aware of how to form a complaint or the many processes involved.

It is recognized that the most impartial investigation into a public complaint is one that is conducted by an independent agency. However, it is also recognized that this type of system would be expensive and not practical in this time of fiscal restraint. It is therefore imperative that the present government meet its commitment to serve the people of Ontario by legislating a police oversight system that is cost-effective by utilizing police investigators and at the same time does respond to the needs of the general public by ensuring impartial oversight and investigation.

**The Vice-Chair (Mr Ron Johnson):** Thank you for your presentation. We have some time for questions, about two or three minutes per caucus, starting with Mr Kormos.

**Mr Kormos:** Thank you, Mr Norris and Ms McNab. You're raising subsection 113(9), which has been omitted from any of the consideration here in what are major amendments to the Police Services Act. I should tell you Alan Borovoy from the Canadian Civil Liberties Association spoke in Toronto about the need to debate and define the obligation of a police officer to cooperate. Paul Copeland, on behalf of the law union, raised similar arguments. Several other presenters have as well.

I want to make this clear. You seem to understand that you're not calling upon a police officer to be relieved of his right to remain silent; you're simply saying that if as a police officer he or she doesn't want to participate in an SIU investigation, then they forfeit their role as a police officer.

**Ms McNab:** That's right.

**Mr Kormos:** So you're not suggesting they shouldn't have the same right to remain silent that you have or I have, or anybody in this room or anybody in this province.

**Ms McNab:** That's right. They have the rights, but they also have obligations under being a policeman.

**Mr Kormos:** I think that clarification is important to make so that people understand how many folks are pleading out for an enforcement of the requirement to cooperate.

When you talked about the OCCPS and its supervisory role of investigations, I think that's an important point. Are you resigned to the fact that police should be investigating these complaints against police, or should not only the oversight be civilian but the investigations also be independent of the police force that's being investigated?

**Mr Norris:** I don't think at the current time there are sufficient independent investigators qualified to do the



investigations, so should the police investigate themselves? Certainly they're capable of doing the job. However, for the sake of, shall we say, perceived public trust, there must be oversight.

**Ms McNab:** The watchdog syndrome. To put it very bluntly, from the way it appears to be set up at the moment, or what they're proposing to set up, the complainant would walk into our regional police station and make the complaint. I foresee many problems with that. All of a sudden we're going to end up with people complaining, "They're not doing the job," because their best buddy, or it's their son-in-law or their best friend's son who is a policeman and he's the one who's being investigated — there's going to be a lot of public people screaming again that there is something wrong going on.

I believe one of the watchdog effects is the fact that we have someone policing the police. I think you're putting your own regional police in jeopardy of those kinds of complaints again. So I believe the first complaint should go through to the higher authority, to be passed down and to be monitored. That way, you're going to have that watchdog effect and you're not going to have as many people coming back with more complaints. What you're going to do is get back into the old system again, where everyone mistrusted the police.

**The Vice-Chair:** To the parliamentary assistant, Mr Carr.

**Mr Carr:** Thank you very much for your presentation. I know how difficult it must be, and we really appreciate the fact that you've taken the time to come in and use the tragedy to try and improve the situation for other people afterwards. Particularly those of us who have children know how tough that would be.

On the second page, when you talk about "The proposed legislation does not address the continuation of the duplication" between the SIU and the new civilian commission, I was wondering if you could expand on that a little bit and then offer your suggestions a little bit more. I know the time is limited, but could you expand on that a little bit?

1120

**Ms McNab:** Russell and I have discussed this. We could see one administrative process, but I believe there has to be some type of separation for the SIU, only because of the fact that they're investigating much more serious criminal offences. They are into the serious injury and death situations.

I do see that there could be one administrative process and one administrator, one person making all the decisions and everybody reporting to that person from different sections. Sort of your hierarchy with your —

**Mr Carr:** Right. What about the separation? As you know, the theory is the Attorney General, separate from the Solicitor General, has the SIU. Do you agree with that; if you put them together that there is some separation of the two ministries? Is that a good thing, to keep the SIU separate, do you think?

**Ms McNab:** I think because the Attorney General's office mainly deals with the judicial end of things, yes, that is probably why the separation was there. Whether that separation should remain is something I think should be looked into by a committee and see whether that is

still really necessary, or could it be worked out to make it one? It would definitely reduce the overlap and everyone working in different offices and departments.

**Mr Ramsay:** Thank you both very much for coming before us today. I'm sorry circumstances conspired to bring you here, but we appreciate your courage in doing that and maybe assisting us in improving the present legislation.

I'd like to talk about this issue because it's a very sticky issue, about a police officer's right not to cooperate with the SIU, because as you point out, police officers do have some very special authority that we in society give them to protect us. I think we all agree with that. However, because of that and because of the power they have, I think this is an issue this committee should certainly consider. There may be some tradeoffs in allowing some informal resolution for other issues so that some of those matters can be expedited where all the parties agree.

I was wondering: To give me as a legislator a better understanding of how these delays can potentially hurt an investigation, if you don't find it too painful to tell us, in your case what happened and how did this right of an officer not to cooperate with the SIU affect that particular investigation?

**Mr Norris:** Well, it certainly prolonged the investigation. Like I said, it took them 30 days before they could even lay charges against Mr Loranger. I'm not sure I fully agree that a constable at the present time under the current Charter of Rights should be obligated to testify or make a statement to the SIU; however I think there can be some sort of in-between ground where an officer's obligations as a member of the public and serving the public should be addressed before he undertakes to become a public officer.

It's been extremely painful for us to have to endure going through, not knowing, and to this date we still have never heard a word out of that officer's mouth. He is the only person that can ever tell us exactly what happened. Had he been compelled to make a statement to the SIU, maybe we would have some of the answers today that we don't have.

**Ms McNab:** And maybe we would have had some of the answers that could have been resolved a long time ago. We were not vindictive people. I guess what we wanted to believe was that it was just an accident. One blood test of course showed that he was very impaired, twice over the legal limit; then obviously there was a change to the story. We wanted to believe in the beginning that he had just made a big mistake, and we will never know that. We will never know that, other than we know now that there was criminal activity involved in it.

**Mr Norris:** Sorry. Just to elaborate on one of the points that I touched on earlier, this is a very, very sore spot with us. I was not even aware that there was a PCC until after two months from Shayne's death. I was not aware that I had the right to file public complaints. There was nobody there to tell me. I had not heard a single word from the OPP, no letters of condolence, no letters of sympathy, not a word. I heard nothing from anybody until I discovered there was a PCC and I filed complaints. Only then did the ball start to roll, and believe me, the



ball's rolling awfully slowly, and it still rolls awfully slowly.

We have done whatever we could do to speed up the process, to assist in the processes available to us.

**Ms McNab:** Which takes us back to the SIU, not being able to get a statement. It would have sped up their processes a lot more quickly if they could have had a statement from the officer, and this has been a proven thing. Basically, speaking to and getting to know a lot of the SIU people, this has definitely been something that really could help them in their investigations. Hopefully, we are all working for the same government, and therefore that is why I feel very strongly that police should have to give a statement. It is only for their benefit because we are talking that the SIU is impartial.

The SIU told us right from the beginning, "We are going to work very hard to get the facts of this, but we are also going to work very hard to clear the police officer," which was a very honest statement because that is really what they are there for. There should be no reason the police or anyone involved in any activity that is being questioned should be worried about it or should be worried about talking to the SIU. This could have been a misconception from way back, that the SIU were out to get the police, but that is not the case. The SIU are out to clear the police before they will clear the victim.

**The Vice-Chair:** I'm sorry, our time has expired. On behalf of the committee, I want to thank both of you very much for your presentation.

#### PETER VICE

**The Vice-Chair:** The next presenter is the Ottawa-Carleton Regional Police Services Board: Anne Boudreau and Peter Vice, please. Good morning, sir.

**Mr Peter Vice:** Good morning. Thank you very much for this opportunity. Obviously, as you can see, it's Peter Vice and not Anne Boudreau. I hope you can see that, in any event.

My remarks will be very brief. You have our chief and deputy chief attending before you this afternoon. I have had a brief discussion with them and they were going to cover some of the matters I wanted to go through, so we will not be repetitive.

First of all, I am the chair of the regional police services board and I should add that any comments I make are my own. We haven't taken a formal position at the police services board, although I think, in an informal poll I've taken, that the majority of the board would agree with most of the things I'm going to say this morning.

Also, I should advise the committee that we've been very preoccupied in our area with amalgamating our three urban forces and, of course, extending out into the rural areas. I can tell you that is going very well, so we're moving on in that regard.

With regard generally, I can tell you that I am in support of Bill 105, save and except for a few matters that I will raise prior to leaving here today. Two of the main reasons I'm in support: One is the new financial sections of the act which call for all municipalities to pay for police services. I think that is reasonable and every resident of Ontario, of course, should pay for police services.

To give you an example of what happened in our area prior to Bill 143 — Bill 143 was the bill I referred to earlier that amalgamated the police services in the Ottawa area — we had the municipality of Cumberland not paying for police services and the municipality of Gloucester paying for police services. There's a line that runs up the middle of the road, so you had kids going to school whose parents were paying for police services and kids going to the same school who weren't. I think it's only reasonable that all members of society and all municipalities pay for police services.

#### 1130

The other matter that leaves me in good support of this legislation is with regard to the police oversight and the amendments with regard to same. I just heard the end of Ms McNab's presentation. I guess nothing is perfect, and until we see how things are going to shake out, we're not sure. I not only speak to you in this regard as a member and chair of a police services board, but prior to becoming a member I did a lot of legal work on behalf of police services boards, associations and officers who were charged under the act. I can tell you it was an administrative nightmare where one would go. You sometimes spent a lot of money on legal fees just determining what route you were to take.

We had the four bodies overseeing. We had the public complaints commission, the special investigations unit, the board of inquiry and then the Ontario Civilian Commission on Police Services, or OCCPS as we know it. As I mentioned, it was always very difficult to determine where you should be going with regard to that maze of authorities. I can only imagine the cost of that to the provincial government, because one thing I can tell you, although I can only imagine what it costs the provincial government, I know what it cost local police services to be dealing with those four bodies in legal fees and other administrative fees. It was very expensive for us.

I believe in that regard that the removal of the third-party complaints from the present legislation is very good. That never made any sense to me at all, that we could have third-party complaints and you then have to go out and search for the person on whose behalf the complainant was complaining. That just never made any sense to me.

The other matter I think we have to consider is not only the financial costs but the human costs to the victims and to our officers. I've seen some cases in our area where our officers were brought before one particular inquiry. They would wait a good amount of time before that matter was adjudicated and they would find themselves later involved with another inquiry. Certainly, the new system seems to streamline it. On minor problems I don't have any great concerns with the police chief having the first right to look at it, subject to appeal to the commission from anybody who feels the chief doesn't handle it properly.

With regard to the SIU, I think the SIU is a necessary body. I think they have to be there to investigate serious matters and I also believe they have to be a separate body, as has been set up in the legislation. That's good and proper, that they are separate from the Attorney General's department. I can tell you at least recently that



the SIU in this area has been responding and has been getting its reports out in a timely fashion.

The matters I have a few concerns about are with regard to governance and then with regard to auxiliary policing. With regard to governance, I believe it's fair to let municipal councils set police budgets. As I read the legislation, budgets are to be set by municipal council based on police services board estimates. As I read the bill also, if the board is not satisfied with what a municipal council has done with regard to its budget, it can appeal to the commission.

That blends with my view on appointees. I believe the province should maintain the right to appoint four persons on the board and I think it's even more important when we're giving the police budgets over to municipalities, because the way the legislation reads, a police board has an appeal to the commission. Also, the commission has a right on its own motion to come in, or on the complaint of one member of a board, and look over any dispute with regard to budgets. But I'm firmly of the view that we would be better off if the province continued to appoint four people to the police services boards.

I have some concerns. I know some of you are probably ex-municipal councillors and I've got a lot of friends who are municipal councillors, but I think policing is so important that it should be left out of the political spectrum, so to speak. I don't think a mayor or a regional chair, whoever, should be able to deal with a police chief or a deputy chief in the same way they deal with their own employees, like a director of planning or whatever, because as you're well aware, the act is clear that the chief runs the police force and the board only administers it. That's my position with regard to governance and the reason why.

The other matter I think the act falls a little short on is that of auxiliary policing and special constables. I think boards, associations and everyone else should be receiving more direction either from the act or from regulations that will be attached to it as to the use of auxiliary police and special constables. To give you an example, in this area when we merged our three police forces, two of the police forces were served by auxiliary constables and one wasn't in the original amalgamation. That has caused some problems because with the force that wasn't, the members had some concerns as to the training of the officers in the other forces in that their association had never been subject to auxiliary officers.

I frankly think auxiliary officers and special constables should be permitted but there should be more guidance from the province with regard to their use. I don't think auxiliary constables should have near the rights that a sworn officer has, but there are a lot of people out in the community who want to get out and do some work and be helpful. Chief Ford and Deputy Mackie, who will be here this afternoon, will speak more extensively on that.

They are basically my comments in complete support, subject to those two exceptions.

**Mr Tilson:** The complaint that has been made by a number of people and presentations to date is that police officers shouldn't be hearing complaints, that you're too biased and that the public will not have confidence in police officers investigating complaints or processing

those complaints. Can you comment on that, because that isn't what Bill 105 says.

**Mr Vice:** I guess that's a matter of perception. I certainly have no problems with regard to the type of minor complaints we get. I can tell you, being part of a large police services board, that the chief — and we have the OPP reporting too. Each month they report to us and sometimes there are up to 50 complaints. As a member of the board, I diligently read those complaints and some of those complaints, quite frankly, are not worthy of going anywhere. I'm sometimes disturbed about the money we even spend internally. So for minor matters I have no problems at all with the chief of police investigating, just like another employer would.

Then of course we have the SIU in major matters. But I don't have any concerns with that, and notwithstanding that the bill reads that we're maybe going to get more formal procedures in that regard, maybe they should be relaxed a bit and have more informal procedures. One thing I have also noted in the complaints is that we get a number, not a good number but 15% or 20% are often handled on an informal basis and the complainant goes away happy and the police officer goes away happy. Like everybody else, police officers can have bad days. I have bad days in my office as I'm sure you do in yours. They have bad days and they might be a little agitated. Because they're police officers they're not supposed to and that's not right.

1140

**Mr Ramsay:** Mr Vice, you've stated that you don't have any problem with the chief handling complaints, but what we've heard in the last couple of days is actually that police officers have a problem with that and so do many of the community groups that have come before us so far.

I think the problem — it's interesting when both sides aren't comfortable with this — is the lack of transparency in the process, that the chief arbitrarily can make a decision and be punitive against a police officer, taking up to 40 hours or five days of pay, which is a pretty stiff penalty. When people live today, as we all do, paycheque by paycheque, that's pretty onerous, without any right of trial.

I really think that has to be changed, on behalf of both sides in this case. As you said, it's a matter of perception, and you perceive it as being fair but many people in the public don't perceive it as being fair, and police officers don't perceive it as being fair. We really have both sides here not happy with this particular change.

**Mr Vice:** Well, I beg to differ, Mr Ramsay, unfortunately. You've heard my position on it and I'm not saying that perception isn't there, but there is the appeal, of course, in any event. I know that just gets you into another procedure and maybe more expense, but I can tell you that the way the present public complaints was set up under the old act was a nightmare.

If you decide to do something, you'd better make it a very summary procedure, because of the number of complaints you get, a lot of them, to use the word of law, are frivolous or vexatious. If you're thinking of doing that, I strongly suggest you have at least some administrative mechanism to screen.



**Mr Ramsay:** I agree it would have to be informal and speedy, but I think by somebody other than the chief, because what I worry about is the morale of the police force and the police officers. Probably being on a police services board, you would have the same concern, because what we're hearing from police officers is that as far as they're concerned that's just not tolerable. I'm very concerned about the morale of the police forces once this bill, as it is, is passed.

**Mr Christopherson:** Thank you for your presentation. Very interesting. I want to say that I agree with you wholeheartedly in terms of the governance issue. I think there is a real reason to be concerned about the shift of control over to municipalities from the province. My opinion is that it was done as a sop to AMO, trying to curry as much support as they could, given all the damage the provincial government is doing to municipalities in terms of downloading and the cuts and changes and dumping that have been taking place.

I don't know if you were in the room earlier, but your concern and my concern is also shared by the Ontario Association of Chiefs of Police, which says, "We are concerned that this decision will lead to greater political interference in the day-to-day operation of police services."

When you spoke of the possibility of mayors or regional chairs calling the local police chief in the same way they would any other department head, I understand, having been in municipal politics, what that means. Those chiefs are going to have to deal with that pressure and they're going to feel it. Do you have anything further in expanding on that for the purpose of Hansard, because you understand it and I understand it, but for people to understand what this means in terms of the difference between a chief responding to a mayor under the new structure versus a chief responding to a mayor under the old?

**Mr Vice:** Let me say that I have no comment with regard to why this was done. Second, I really have a strong feeling in that regard because in my real life I practise municipal planning law and I do see sometimes the pressure elected officials can put on their own people. This isn't my first stint. I was on the Ottawa Police Commission back in 1983 through 1986, as a member only. I always find that it takes a longer time to train the municipal politicians who come on, because they do tend to treat the officers as employees and as anybody else.

I certainly agree with you on that, Mr Christopherson. I can't really say any more than that I fully agree that's a concern I have. I was trying to put it in my original presentation with regard to the budget matters, but being as frank as I can, that is a real concern I have.

**Mr Christopherson:** I know. It's a legitimate one.

**The Vice-Chair:** Mr Vice, I want to thank you on behalf of the committee for your presentation.

That will end the morning session of the committee and we will now recess until 1:20 in this room.

*The committee recessed from 1147 to 1324.*

#### GEORGE STAIRS

**The Chair:** Good afternoon, ladies and gentlemen and members of the committee. Our first presenter this

afternoon is Mr George Stairs. Mr Stairs, I'd ask you to proceed. You have 20 minutes.

**Mr George Stairs:** Thank you very much. I won't be very long today. Ladies and gentlemen, in my brief submission today I wish to indicate my support for Bill 105. Change is long overdue, particularly where it relates to the pay-for-say principle; that is, local accountability, either through police service boards or community policing advisory committees. Of course, ratepayers cover the cost of their own policing needs.

My experience stems from a story of a few years ago when I lived in Thessalon, Ontario, a town just outside of Sault Ste Marie. Thessalon is a town of 1,700 people with an OPP detachment on Highway 17 as you enter the village. Algoma social services is also located on the edge of town, and Thessalon, which runs a Futures program, tends to host groups of non-townies from time to time.

One such young man when I lived there was selling drugs, being disorderly at times and occasionally committing acts of vandalism. He was under 18 and, being a young offender, was hard to stop. The OPP who patrol from Thessalon detachment, an area extending from Iron Bridge to Echo Bay and halfway up Highway 502 to Chapleau plus all of St Joseph Island, would often be half an hour to 45 minutes from town when called. With Thessalon's population, we were not paying for local policing services, but we were not setting local priorities either. Town council debated the possibility of re-establishing a town constable; one had existed before 1950.

The point is that had this legislation existed, the town would have had the option of renegotiating its police services with the OPP, emphasizing the core functions of crime prevention and law enforcement within the village to meet local needs, even if this had involved higher costs to the ratepayer. In the event, a solution was arrived at when the young lad turned 18 and left town within about a month.

Local governments should make decisions about local services. They will pay for that if they know there is local accountability. This bill is another step towards better government in Ontario.

Thank you very much.

**Mr Ramsay:** Thank you for your presentation. I just wanted to clarify, though — what's the population of Thessalon again?

**Mr Stairs:** It's 1,700 people, approximately.

**Mr Ramsay:** I can see your point. I was going to say that obviously under the old act, the town would have had the option to have its own police force, but with 1,700 people that would seem very impractical. I agree with you; I think it's very important that local citizens have a say on their policing, for sure.

One thing this is going to do with municipalities paying for their policing, even though they might find it tough having to take this all at once with all the other downloading, is that they're going to be able to have some say in that. I think it's important that policing reflect community needs and values. Obviously that's what was missing at your end back then.

**Mr Stairs:** Exactly. It's extremely important. I know too that fines etc will come to town councils. There has



been some suggestion in the past that we might turn into towns like in the southern United States where we put up speed traps and that sort of thing, but I think that flies in the face of the basic social makeup of Ontarians, perhaps even Canadians. I think our greatest concern in Thessalon wasn't how we could dupe some poor tourist out of \$100; our biggest concern in Thessalon was how we could stop windows from being smashed and our young kids at the public school there and some of our high school kids from buying drugs and that sort of thing.

It's much different in a town like Thessalon than a city like Ottawa. Everybody knew the OPP officers. You couldn't bring in undercover officers if you wished, or whatever. So when somebody like this dealt drugs, it was a known fact, but it's hard to catch the person in the act at the time. You can't simply take the kid off the street and put him in jail.

There is a problem. We were looking at paying more as ratepayers to rehire a constable or to hire a constable. It would have been far more efficient for us to pay for another OPP officer who was committed to just patrolling the village.

1330

**Mr Christopherson:** Thank you very much for your presentation. One of the things we're hearing during the course of these deliberations is that police officers, as workers and employees, are being stripped of rights that they had in the past and that there was no consultation on those issues; they were quite surprised. If you attend today's hearings and any of the others, you'll hear strong representation from police associations on behalf of those members urging that this government reconsider the stripping away of these rights that police officers currently have.

One of the submissions, to assist you, comes from the Police Association of Ontario and it goes on to say: "Bill 105 will strip police officers...of most of the protections that we need. That may surprise you. The editorial writers of some newspapers" seem to think that this bill "has been a gift to the police...we're here to tell you that this is not so."

Another quote: "More importantly...we're alarmed that elements of Bill 105 which are devastating to the rights of police officers were never even raised in those consultations," meaning the meetings that the minister had. "We have no idea where they came from."

Lastly, they say in their submission on behalf of all police officers in Ontario, "Bill 105 must be significantly amended where it strips police officers of their rights and safeguards."

I don't know how much opportunity you've had to read the entire bill and understand its implications, but do you think the concerns of our police officers are important enough that the government should heed this message and seriously review at least those amendments that affect police officers' rights?

**Mr Stairs:** No, and I'll tell you why. I have to admit this particular area was not the emphasis of my submission, so I may step in it here, but as a citizen who is not a policeman, I view rights as something that are equal among us all, but I'm willing to give up a certain amount of those personal rights or, if you will, grant somebody

extra rights in order to protect myself from the person over here who doesn't respect any of my rights. All right? We call that policing. But at any time during that process it's not the policeman with the extra rights who continues to make the decision. It's the public through their legislators who continue to make the decision.

In other words, to refer to Clausewitz, war is too important to be left to the generals. Any kind of legal legislation should reflect our needs and needs that we see from a political point of view, not the needs of a particular group; that, combined with the fact that everybody dislikes change and will obviously argue to maintain the status. When I say everybody, that's unfair, but a good many people.

**Mr Christopherson:** I would just point out the concerns, and I'm sure if you talk to any of your local police officers, they could explain to you carefully. This has nothing to do per se with their relationship with the public in terms of some of the rights that have been taken away. It has to do with their relationship with the chief and the police service as an employee-employer. So it's in that regard that they've had rights taken away that were never talked about before. Just boom, there they are in the bill and suddenly they're standing back saying, "What happened to my rights?"

**Mr Stairs:** I would still stand. You're the legislators. You're our leaders. It's good to hear from them, it's good to take that into consideration, but the overall effect of this bill is positive and I think we should proceed with it.

**Mr Christopherson:** Gee, I think I hear a diehard here, but I appreciate your comment. Thank you.

**Mr Tilson:** Mr Stairs, thank you for coming and giving us your thoughts on a couple of issues. The issue of political interference by politicians versus police services being more accountable is obviously the debate of the main issue that you're talking about, and I understand that. No one wants us to become a police state, but at the same time everybody has to be accountable.

I represent a community which is just northwest of Toronto. It's an hour and a half, two hours' drive from Toronto, and in that area we've got four different police forces. We have a regional police force, we've got an Ontario Provincial Police force and we've got two town police forces, and there are interesting issues that develop from time to time.

I guess I'm reinforcing what your position has been and which I'd like you to comment on at the end, such issues with the two town police forces as, "Well, we need more foot patrols." Of course the police chief and the chair of the police services board, when they come into council, there's not a heck of a lot the council can do. I mean, tough beans.

I don't mean that the police are not responsive, but it's just that feeling of the public who go to the politicians and say, "We need more foot patrols," or in other areas, an area where I happen to live, which is semi-rural, we don't have 24-hour policing. There's no policing, and the bad guys know about that, which is kind of troublesome. "Well, that's OPP territory." Again, there's that lack of accountability.

I can tell you that the people in my area, I believe, would support what you're saying, that we need more

accountability or more responsiveness as to the needs, and if you've got to hire more police officers for foot patrol or 24-hour service, then this is what's going to come because your taxes are going to go up.

**Mr Stairs:** That's right.

**Mr Tilson:** I think that's the issue, as opposed to having absolutely no control whatsoever as to what your police services are going to be, or very little control.

**Mr Stairs:** Exactly. Let me just expand slightly on the Thessalon situation because it sort of dovetails into what you're saying. The Thessalon detachment of the OPP is a very good detachment. Because they weren't able to solve this problem, I'm not reflecting upon their policing abilities, but their policing priorities were different.

Highway 17 is a dangerous highway. There are a lot of car accidents. They have a lot of policing to reduce people from speeding, to check trucks etc. The second thing is that Highway 17 is the main artery from eastern Canada to western Canada. If a crime occurs in Toronto and the guy gets in a car and decides he's going to scoot out west to hide out, he's got to go down Highway 17 unless he goes through the United States, and it's very difficult to do that. There are often roadblocks set up on Highway 17 to stop fleeing criminals that they believe are moving across the country.

You can see that the priorities are slightly different from a kid in a downtown village street breaking windows, being noisy and being disorderly. It doesn't mean that the policing was bad in Thessalon. It just means that there was no local input and so we've lost a local focus.

**Mr Tilson:** So your message is what? The policing that's needed in one area might be quite different in another area, and therefore the input —

**Mr Stairs:** Exactly. Policing runs down a million different roads at the same time and it's not surprising under budget constraints etc that some of those are ignored in favour of others. That doesn't mean it's bad policing. It just means it's policing that's not focused on the needs of what might be more local concerns.

**Mr Tilson:** I appreciate your comments, Mr Stairs.

**The Chair:** Thank you very much, Mr Stairs, for your presentation.

#### FRANCIS NICHOLLS COMMUNITY SUPPORT GROUP

**The Chair:** Our next presentation is the Francis Nicholls Community Support Group, Raymond Peterkin. Welcome. Your timing is impeccable. We have 20 minutes set aside for you and your presentation on behalf of the support group. I'd ask you to proceed.

**Mr Raymond Peterkin:** Mr Chairman and honourable members of the Legislative Assembly, my name is Raymond Peterkin. I understand you are the standing committee on administration of justice. I come to you in good faith to tell you of our condition in the hope that you will listen and use your influence in a just manner so those of us who are affected by policing will be able to sleep better at night. I was asked whether I would like to make a presentation, and after consultation with various members of the community, I agreed to be here today.

You'll have to excuse me. I had to rush to get here and I'm still trying to catch my breath.

I am a community worker and co-chair of the Francis Nicholls Community Support Group. This group was created after the shooting of Mr Francis Nicholls, a community member, on January 1, 1997. He was shot in his bedroom by a member of the Ottawa-Carleton regional police force, and as a result of the sequence of events that followed, we thought it necessary to put this group together in order to try and assist Mr Nicholls. Mr Nicholls was a man who was in need of help, but instead he got bullets.

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To date, the police have refused to admit any wrongdoing. Instead, they have defended their actions and proceeded to lay charges against Mr Nicholls when he obtained a lawyer in order to seek justice. Our community gets the impression that the police are sending a message that the police are the law, and that is a very scary thought for us as a community.

This attitude by the police is having a devastating effect on our community, and I hope to enlighten you on our concerns over Bill 105.

Concerning the bill, in my discussions with many community members I found out the following: There is a general fear of the police among our community members. The police chief has been inaccessible to our community. We have no one to turn to when we feel police have acted improperly. We are getting a very clear message that we are not appreciated in this country.

This message was made very clear after the shooting of Mr Nicholls on the Lowell Green show, and now through Bill 105 we realize that more power is being given to the police and this sends the message that no matter what we say, no matter what we do, we still find more and more the police are being empowered without the necessary checks and balances in place to ensure that yes, we must have policing, but how about the rights of the civilians?

The difficulties we see with the bill are as follows: Most people were unaware of the bill, much less its implications. No one knew of Mr Roderick McLeod, except for Chris Harris. I could not find a single group in our community that participated in the consultation process that was headed by Mr McLeod. We do not have a sense of the true impact of the legislation. We have no idea how this is going to affect us as a community. We do not understand how the process is going to work and we do not get the feeling that we are included in the decision-making process.

A review of the material that we received revealed the following: There were extensive consultations with police and municipal stakeholders. The same level of consultation was not extended to the community in general, and in particular to our community. We do not know what efforts were made by this government to reach our community and to solicit input from the ordinary man who is likely to be most affected by this new legislation.

We would like to know, is it fair to solicit a certain level of input from police and municipal stakeholders and not use all necessary means to ensure adequate and equal input from the community, especially groups that are most at risk, like our community? We would like to know whether it is fair not to give the same amount of attention



to the community as was given to municipal and police stakeholders.

One of the findings of the consultation process read as follows: "Police and municipal stakeholders agreed that the system of civilian oversight of police activity must be credible, fair, objective, transparent and open with levels of accountability that are understandable and which have the confidence of both the police and the general public."

There are some very strong words in this statement, words such as "credible," "fair," "accountable," "understandable," and it also spoke about confidence as it relates to the general public.

Our question is, how can we make this happen? Another question is, how can we gain the confidence of the public if the public is unaware of the process and has no, or very little, input?

In summary, I would like to say that the government of Ontario is well aware of the suffering of black people at the hands of the police — there's a long history of names and shootings and different problems we have had as a people — and the lack of justice we have received to date. Yet you come to us with a proposed bill, Bill 105, that will give further powers to the police and reduce the ability for us to find an effective dispute resolution process to resolve disputes between the police and our community. As citizens and taxpayers, we cannot pretend to be happy with any proposal that will give more power to the police without fully understanding its implications.

We understand that we are living in a time of restraint and measures must be taken to control costs. However, costs cannot be measured only in monetary terms. We need to understand both the intended and the unintended consequences of this bill, otherwise the savings that we seek to gain would really be meaningless.

We also understand the need to streamline the process, to make it simpler and more accessible to the public. We do not, however, understand how you plan to make a system that is fairer by giving more power to police chiefs, knowing that the chief is influenced by his senior officers and is under great pressure from police associations. How can we accomplish that by giving him the powers to make these decisions?

We have simply one recommendation, so it will be very easy for everyone to see: We recommend that our community be treated fairly by giving us the proper time and resources to study the effects of this legislation, to meet with community members and to make a proper submission to this committee.

1350

The whole manner in which this thing has happened is the problem. Out of approximately 15 people I called, very few people knew of this process, very few people knew of the bill and most people did not understand what is going on. It would appear to me that the government has not done its job of informing the public of what it is doing, and therefore you have come to us at the 11th hour and all this will do is give the impression that we were consulted. But I can tell you, I am only a messenger. I came here to tell you that our people have not had the opportunity to participate in the process and we would like time so that we can participate at the same level you extended to the other stakeholders.

In conclusion, we, the members of the black community of Ontario residing in the regional municipality of Ottawa-Carleton, with a history of police shootings and police brutality, cannot endorse Bill 105 in its entirety. Our community cannot trust the police to handle our complaints fairly. We are concerned with the added authority that would be given to the police chiefs and the inability of the new Ontario Civilian Commission on Police Services to intervene on behalf of civilians.

If the only role of such a committee would be to review decisions made by the police chiefs, and it would have no authority to take action, then the OCCPS would be completely useless to us. The police are a brotherhood with their own culture. We have already given too much power to the police and it is important that we do not compound our mistakes. We have recommended that the government give us equal treatment by allowing adequate time and resources in order to provide the same level of input as the police and municipal stakeholders.

Our wish is for a truth commission with the proper authority, resources and community participation that can bring about the truth when dealing with police complaints. With the truth and only with the truth can justice be served. We trust that this commission will use its influence to ensure that we are given a fair opportunity to participate as a community and not to take for granted the word of one member of the community.

**The Chair:** Thank you. There are only two caucuses present, and therefore we've got three minutes each

**Mr Christopherson:** Thank you very much, Mr Peterkin, for your presentation. Let me say to you that there are an awful lot of us in Ontario, from all walks of life, who believe and have faith in the professionalism of our police officers and the institutions. But recognizing that no institution and no people are perfect, it's important that there be the oversight mechanisms. There are a lot of us — not the government — who believe that part of the ability to give police our support is ensuring that there are proper checks and balances that people can buy into.

I think, regardless of one's feelings about the police, if you listen to the presentations that we've been hearing, there's enough need to make sure that the process not only is fair and transparent and unbiased, but appears so. You just cannot — and I say this to the government members — have consistently in every community you go in group after group after group, particularly those who are visible minorities, expressing this concern and somehow think at the end of the day we've still got a process that's fair and workable. We don't. Large chunks of our population are not buying in, and that in and of itself should give you pause to reflect again on what you're doing.

On the consultation process, I can tell you, you're not alone. Even inside the police community, those who were at the meetings with the minister, the police officers and their representatives, found things in this bill that take away their rights as workers that they didn't know about. They came as a total surprise. Firefighters have had the same thing with Bill 84.

Certainly Mr Morley Kells, today a member of the Tory caucus, is suggesting that there are surprises for him



after he has been so-called consulted, and certainly the labour groups that I work with feel that way too. So you're not alone in feeling left outside the loop. It's happening all across the province in terms of the people this government deals with and how it leaves them at the end of the day.

You should know too that with regard to the money that's being saved, we have no indication from the government that it's planning to reinvest that \$3 million back into policing, oversight, administration, training of officers. Nowhere are we hearing that \$3 million is going back into policing. We just know that it's coming out of the system.

The last thing I'd say to you is in terms of the speed. We in the NDP would support anything that would slow down this legislation and give more opportunity — well, we would say that across the board on a lot of legislation this government's bringing down. I happen to believe a lot of that's deliberate. They want to overwhelm everybody so they throw their arms in the air and say: "I give up. I don't know what's going on any more."

I just would comment to you that many of the concerns that you've raised I share, maybe for different reasons, but at the end of the day the goals are similar and the changes that we seek are similar.

**The Chair:** We have Mr Johnson and Mr Tilson.

**Mr Ron Johnson (Brantford):** Thank you. I'll be brief so Mr Tilson can have an opportunity. I want to thank you for your presentation. Our friend Mr Christopherson just finished berating the government for its consultation process, but I think it's important to understand that this is draft legislation, that we are looking at all of the presentations coming before this committee and looking at amendments to help improve this bill. That's why we're here.

Despite what Mr Christopherson says, you're here today, you're presenting your views to this committee and we are listening to what you have to say. I think it's important that you recognize you are part of the process. You have not been left out of the loop. By virtue of your being here today, it shows that this government is committed to listening to all those who are involved.

But getting to your presentation, you indicated in the beginning that you weren't pleased with the current oversight system. I would agree. A lot of people aren't and neither is the government, and that's why we're coming forward with what we think will ultimately be an improved system of oversight.

Your biggest frustration was that you seemed to not get response. When there was a complaint made, there was no response. How do you feel about time lines being put in place that would demand a response to the complainant within a 30-day period? The legislation does make provision for that. How do you feel about that?

**Mr Peterkin:** Time lines are fine and I think it would be an improvement. However, you made the assumption that because I was here I was part of the process. I would like to indicate to you that my being here does not mean that I am a part of the process in the way I would like to be. So we should not make those assumptions that by talking to someone you have adequately allowed for them to participate. That is the misconception I see there.

**Mr Ron Johnson:** Yes, I think that's a fair comment. If you're looking for greater participation, I know that our parliamentary assistant, Gary Carr, is certainly willing to listen to groups, even after the committee or before, and receive additional information from yourself. We want to encourage you to get involved more, as well as everyone else who's interested. I'm going to let Mr Tilson ask a quick question before we run out of time.

**The Chair:** He has left you less than one minute, Mr Tilson.

**Mr Tilson:** Mr Peterkin, thank you for coming. I think you've emphasized that law enforcement is most important in our society, whatever your colour, whatever your religion, whatever your gender, whatever your age and so on. I think that whether you're talking about this bill, with the issue of law enforcement we must have confidence, we must have trust in our police service and in all of the agencies that are connected with that police service. We appreciate your coming and emphasizing that point.

I'm just going to read you a section that talks a little bit about that — if we have time for a comment — from Brian Adkin with the Ontario Provincial Police Association yesterday in Toronto. He said:

"It seems most unusual that we entrust the police to investigate the most serious crimes in the Dominion, to utilize the most invasive procedures when heinous crimes demand it — and they are authorized when police pursue a criminal who could even be one of their own off duty — but we buckle at the knees when we think of police investigating complaints or offences involving police officers, most of which are unfounded or not sustained. We believe that the public will support the proposed system of dealing with complaints. In most cases apologies will solve problems and save investigations. Many victims and officers are both pleased with this action."

You may or may not agree with that statement, sir, but I will agree with you that we all of us need to work harder to gain the confidence, that the police need to have the confidence of all us, whatever our colour is, whatever our age is, whatever our gender is, and I thank you very much for coming.

**The Chair:** I thank you very much, sir, for attending.

**Mr Peterkin:** Do I get to respond?

**The Chair:** Our time is up, unfortunately, and we must move on. I'm sorry about that, but we thank you for attending today.

1400

#### OTTAWA-CARLETON REGIONAL POLICE SERVICE

**The Chair:** Our next presentation will be the Ottawa-Carleton Regional Police Service, Chief Brian Ford and Deputy Chief Alex Mackie. Welcome, gentlemen.

**Mr Brian Ford:** Thank you very much, Mr Chair. I'm Brian Ford. We appreciate your facilitating us to speak to you today. This is Deputy Chief Alex Mackie, who is my deputy chief of operations. I'm going to switch glasses. I won't be able to see you but I'll be able to see what I'm talking about. Maybe it's good that I don't see; then



I can't read the body language. I've always said this is a blessing in disguise sometimes.

Thank you very much for providing us with the opportunity to speak here today. My name is Brian Ford, as you know. I'm the chief of the Ottawa-Carleton Regional Police Service. On reviewing the Solicitor General's amendments, I was impressed by the ministry's strong commitment to improving the quality of policing in Ontario.

I am aware that yesterday the executives from the Ontario Association of Chiefs of Police made a presentation to this committee. In addition to sharing the position of my colleagues concerning policing adequacy, costing processes, municipal agreements to share police services, the SIU, the need to revise the code of conduct and their discussions about the Ontario Police College, I want to focus on some issues that are particularly important to policing and the community in Ottawa-Carleton.

Today I will speak briefly about auxiliary policing, part-time policing, the use of volunteers, training facilities and core policing functions.

With respect to auxiliary policing, auxiliary police units have been successfully operating for 41 years in Canada and for over 150 years in Great Britain. The earliest auxiliary units in this country were part of an inactive reserve in which members were used in major emergencies such as an environmental catastrophe or in the event of the War Measures Act. Today, auxiliary police officers are volunteer members from our communities. They are well trained and provide assistance to their community while supplementing the efforts of the police service in a wide variety of tasks.

As chief of the Ottawa-Carleton Regional Police Service, I feel strongly about the benefits which auxiliary police units can offer and have seen evidence of this first hand. I support a broader interpretation of Section 52 of the current Police Services Act and respectfully submit that auxiliary units be given an enhanced mandate and that chiefs of police be granted the authority to make better use of this valuable resource. In this era of community partnerships, police agencies are faced with the difficult hurdle of improving performance and addressing a myriad of community safety concerns, and I cannot think of a better way of meeting community needs than through effective use of auxiliary policing. I am aware that there are some concerns with the use of auxiliaries, but believe that by allowing them to assist police services in specific non-core functions and duties, and when equipped in a uniform that readily identifies them as auxiliary members, the potential of this resource will become apparent.

From my experience as chief of a large regional service, there are many advantages that auxiliary policing brings:

A successful auxiliary policing unit may have a significant positive impact because it adds a new dimension to the police organization's professional skills.

Auxiliaries are by design able to supplement personnel strength during emergencies when human resources are normally the most strained.

Auxiliary members provide a pool of potential applicants who can be screened in a policing environment

prior to sworn enlistment. Likewise, auxiliary members would also have the opportunity to more accurately evaluate what a sworn career in policing truly entails. We have just gone through a hiring process, and seven members of the 25 that we hired recently came from our auxiliary policing program and another half dozen were hired by other forces throughout Ontario as well.

A qualified auxiliary can enhance the safety of the police service and the community it serves. For example, in our case here in Ottawa-Carleton, I believe the auxiliary unit could be used in a situation where you have a high incidence of break-and-enters or vandalism or whatever the case may be. You could use an auxiliary unit as a static kind of surveillance unit. They would not get involved in the actual core function or the arrest of the individual but they would be able to relay to operational personnel who would be close at hand and out of the way information vis-à-vis some activities that were taking place.

They also provide excellent help during parades. In our case here, with the number of parades and demonstrations where we have to block off traffic and close down streets, they provide a resource for us. In reality, it keeps our costs of policing down, our overtime costs down, and we can use auxiliaries for some of these functions, which really you don't need a fully trained police officer for.

A qualified auxiliary can enhance the safety of the police service and the community it serves. For example, the auxiliary is an excellent example of how the philosophy of community-based policing can be successfully realized. By sheer volume, they will increase contact with the citizens we serve and can enhance the police agency's public image. As highlighted in Peel region's Strategic Policing Response, auxiliary policing provides "an invaluable link to the force's goal of community-based policing."

In January 1992, Blue Line Magazine wrote an article on auxiliary policing and they said this about it: "Policing is one of the most important functions in our society and by participating in that function, members develop a strong sense of personal worth, knowing that they too have been able to serve and protect." They were specifically talking about auxiliary officers when they made that quote.

The training of auxiliary officers has proven to be comprehensive and extensive. These individuals are ready to assume the specific duties as directed by the chief of police. The extraordinary demands that emergency situations place on a police agency's resources can be more effectively and efficiently managed if auxiliary members attend to the tedious tasks associated with these extraordinary situations. For example, Toronto has utilized auxiliary members at several disasters, ie, air crashes, the Mississauga train derailment, the Barrie tornado, as well as the opening of the SkyDome, the economic summit and royal visits. In general, auxiliaries are well suited for these and other emergencies, parades, festivals, and also in the search for missing persons and for use at sporting events.

I trust you will agree that auxiliary policing makes not only good business sense but just plain common sense and support my call for changes to the legislation that



will allow chiefs to make more extensive use of this resource, as well as my recommendation that they be dressed in an easily distinguishable uniform.

With respect to part-time officers, I would like to address a related issue. It is my recommendation that the legislation be amended to provide police chiefs with the ability to make optimal use of part-time members. Like auxiliary members, part-time staffing just makes good financial and operational sense. Operational issues in my organization could be more easily resolved with the use of part-time officers. Part-time staffing would also allow the police organizations an option for holding on to valuable personnel we have invested a great deal of time and money in. We have invested significant resources in training these officers over many years and they have extensive and invaluable experience which can continue to benefit the organization and our community. Officers, particularly female officers, who might simply resign their post when raising a family might be more inclined to stay on as part-time officers.

With respect to volunteers, I want briefly to touch upon the use of volunteers in policing. As I have already called for legislation permitting better use of auxiliaries and part-time members, I want to make it clear that even with their use, there is also a great need for volunteers in our organizations. Volunteers are key partners in communication and these individuals have to come to us in the spirit of good citizenship, as people who want to be local problem-solvers. It would be our loss if we do not take advantage of their commitment and the myriad of talents, diverse skills, experience and perspective they bring to a police service.

The next issue I want to touch on is the training facilities at the Ontario Police College. I know, as I said earlier, you were addressed on this subject by the Ontario Association of Chiefs of Police. I would also like to comment on the need for adequate, professional and appropriate training facilities in the province of Ontario.

Every police officer receives core training at the Ontario Police College but I firmly believe that police training, like education, is a lifelong process. As chief of a newly created police service, a large regional service, for that fact, I anticipate increasing pressure to provide continuous training and development of my membership. We are already on the cutting edge in dealing with educators and training professionals, and I urge the government to consider providing a mechanism that would allow police services to develop training programs within their local facilities. By that, I mean we have entered into a partnership with the local community college here, Algonquin College, as Durham Regional Police Service has entered into with Durham College. We use the facilities at Algonquin College to do all our training functions here. I believe we could enhance this and I think it would make economic sense if the training standards for recruit training at the Ontario Police College were used from a training perspective in local community colleges. We could do our recruit training at the local facility here, ie, in our case, Algonquin College. There is a cost to training and I believe it makes financial sense to use the local colleges where people could pay for that education as part of the process of their development.

1410

Finally, I'd like to comment on the issues of the proposed core police functions and adequacy of service. I would urge the ministry to involve all stakeholders, from the chiefs of police to members of police services and boards and community members, to assist in defining these functions.

These different stakeholders, I believe, could positively contribute to deciding what will be a suitable method for measuring service quality and police performance. These measurements must go well beyond the traditional quantitative indicators and include qualitative measures as well. Through consultation and partnerships, I am convinced that police services, the ministry and the affected communities can develop standards which are understandable, acceptable and a benefit to the community.

Like the OACP, I also believe that a functional review of policing services should occur before any further restructuring of policing occurs in Ontario.

At this point, I'd like to thank you for the opportunity to address your committee here today and I'd welcome the opportunity to answer questions that you may have. The difficult ones I always give to the deputy chief.

**The Chair:** Thank you, Chief. We have three minutes per caucus.

**Mr Carr:** Thank you very much, Chief. I had the opportunity to meet you on other occasions. Actually, we were at a conference early last month and we had a chance to chat and also talk a little bit about your son, who I understand is a pretty good hockey player as well. I appreciate the opportunity, but unfortunately in this instance we're going to have to get down to business. There isn't much time.

It relates to the issue of auxiliary that you discussed. If they are going to be playing a role, there are many, including a lot of people in the association, who say we need to have a clearly defined role, and they want to get specific even in terms of uniforms so they're readily identifiable. You know the problem in the States where some of the security guards have better uniforms than some of the police do. With things as specific as uniforms, should we have something that's clearly distinguishable so that the public has no doubt who is auxiliary and who is a police officer?

**Mr Ford:** Absolutely. I think it's important that distinction be made when considering the uniform. It should be a uniform that is distinctive, that is recognizable from a policing perspective but also distinctive from a sworn police officer's uniform. I don't have a problem with that. We have been looking here — we're hoping that something will come out of this process — at developing a uniform that is a somewhat different colour than what the regular officers wear, such as I'm wearing right now, that has a steel-blue colour and an offsetting other colour. But yes, I agree with that.

**Mr Carr:** Also, regarding the use of force and so on, I take it that it's very clear that the auxiliary carry no use-of-force weapons whatsoever.

**Mr Ford:** I wouldn't say no use-of-force weapons. I would say the possibility, because our own auxiliaries do receive training in the use of pepper spray and the baton. I don't see the need for them to carry firearms, but we do



train them in the use of firearms because if they're out on a ride-along with an officer, in an emergency situation, I think it's beneficial that they have that training. I don't see the need to carry one, but the other use-of-force tools such as the baton and the mace can come in handy.

**The Chair:** Mr Brown, we have about a minute.

**Mr Jim Brown (Scarborough West):** One of the questions I had was how old your son is who plays hockey. Gary's probably looking for clients.

In the Netherlands there is a program the police have with people on social assistance. What happens is they give them a short training program, they give them a cell phone and a uniform and they're requested to patrol particular areas of the city. There are certain areas that particularly need patrolling. What do you think of that idea? Could that be done here?

**Mr Ford:** No. My son played for the Sault Greyhounds, by the way. We did talk about that. But no, I don't think it would be a good program. When you have people involved in a process such as volunteers for policing, as a community volunteer I think it's more important that that member of the community who is involved wants to be there.

**Mr Ramsay:** Thank you, Chief Ford, for your presentation. I wanted to talk a little bit about training facilities in the Ontario Police College. I think you bring up a good point, that where it would be economically feasible and may be cost-effective, why not allow a police force as large as yours to contract its own training using local facilities? I know you have to pay room and board when you send your recruits down to Aylmer and I think that makes sense.

From another point of view, I've been hearing lately about a drop in standards at the Ontario Police College and that recruits who are going there, first of all, a good percentage of them, are not as up to standard upon entry as they're supposed to be. But instead of being sent back like they used to be in the old days, they're given remedial upgrading in some of those areas and some of them still fail after three or four weeks. It seems to me there's a lowering of standards there. I'm sure you've had recruits there lately. I just wonder if you've heard of any of that or have any of that concern.

**Mr Ford:** I haven't heard about the lowering standards at the college itself in terms of the quality of product that they're delivering from that perspective, but I do know that the college is finding it difficult to meet the needs of the training requirements that we have. That's why the OACP and myself — and I support that decision of the OACP for the retraining program that they have after five years. They're behind in that process. As a matter of fact, we do some of that training ourselves now. We've received their standards to do that in conjunction with Algonquin College.

Where I was coming from on this was, if we could use the training standards as set down by the ministry and take those standards, have them at the local police college where we could then train people locally, we could save money both for the province and ourselves from a policing perspective. It costs us at least \$2,000 per recruit to send them to Aylmer, and that's paying their travelling costs and other incidental costs. On top of that, the

recruit's now required to pay \$3,000, but I understand that may go up over time. I think it could be done far more economically at the community college level in the local community where they're also integrated with other students as well.

**Mr Ramsay:** Do you think this might help with the complaint I'm getting? The complaint I'm getting is from veteran police officers who feel that the new recruits coming into municipal policing today just don't have the dedication that maybe recruits did in the past and don't seem to be taking the standards as seriously as they should be.

**Mr Ford:** Federal police officers said that?

**Mr Ramsay:** No, veteran police officers.

**Mr Ford:** No, I would disagree with that. Quite frankly, the quality of police officers that we have in Ontario is second to none. I'm very satisfied with the quality of recruits that we've been able to recruit through the hiring process and the constable selection process that's in place in Ontario. I think we set standards within our organizations. We have coach officers who ride along with the new recruits. I'm clearly very satisfied with the quality of recruit we're receiving.

**Mr Christopherson:** Chief, Deputy, good to see you both again. Brian, I was particularly interested in your comments about auxiliary and volunteer and part-time. I'm wondering, was there much discussion of this sort of thing during the so-called summit? Was that on the table? Because I know there's been pressure — you're bringing it to the fore here today — but it's been a growing pressure. Also the use of special constables; there's the concern from the management point of view, from your point of view. There's also concern on the part of the police associations as to what it means; different concerns. But I wonder if there was some discussion and some consensus reached at all?

1420

**Mr Ford:** This is a difficult question I'm passing to Deputy Chief Mackie. Now, I'm only kidding. Actually, Deputy Chief Mackie was at the summit, he was representing our organization at the summit, so I'll let him answer that question.

**Mr Alex Mackie:** Yes, auxiliary policing was discussed at the summit with the stakeholders at that time. Although there wasn't a consensus around the table, there was a general agreement that it was an issue that should be looked at, but there was no consensus with respect to uniforms and some of the roles and functions auxiliaries would do. Part-time policing and specials did not have such a high profile as auxiliaries.

**Mr Christopherson:** My sense is that given the growing fiscal pressure on police services, there's going to be more and more need to look at it. By the same token, the police associations, both the PAO and the OPPA, have a right to be concerned about the watering down of their profession and preserving the right of fully trained officers to be doing work that only fully trained officers ought to be doing. I hope that the government at some point will get around to addressing that because I think all parties need to be a part of it.

The other question I wanted to ask, Brian, was yesterday we heard from a gentleman who represented himself



as the owner of an agency that wanted to provide private policing, which of course would be a part of what you're talking about here, and I wondered how you feel about any of the work that's currently being done by public police officers being farmed out or contracted out and beginning to enter into the realm of private policing in any way, shape or form.

**Mr Ford:** There's no doubt that there will be a move to the use of private policing in some situations. They can be used to some extent in situations where you have a private enclosure where they perform a security guard function. But to move public policing issues to private policing would be a dangerous move, in my opinion. I know that the chiefs' associations, both nationally and provincially, would object to that as well. We carry an awesome responsibility as police officers and there are a number of checks and balances that quite rightly should be there in both federal and provincial legislation. I believe it would be much more difficult with private policing to make sure of adherence to standards in the same way you can with public policing. I'm not in favour of it.

**Mr Christopherson:** Thanks. And I like your new flashers.

**The Chair:** Chief, Deputy, thank you for assisting the committee today.

#### CHRIS BOWES

**The Chair:** Our next presentation is by Mr Chris Bowes. Welcome, Mr Bowes. We have 20 minutes set aside for you, so I'd ask you to proceed.

**Mr Chris Bowes:** Good afternoon. I'd like to thank the committee for having the opportunity to speak on this issue. I'll just introduce myself. I'm a lifetime resident of Ottawa and I started getting interested in this topic when I started looking at some of the issues around mega-week. I'll start by saying that I'm here to speak in support of the bill. My background is economics and law.

There are three issues that I'd like to speak to, and those are fairness, accountability and local control. The present situation in Ontario is that we haven't really had a comprehensive review of police services in two decades. Obviously this province has changed in the last two decades. There have been attempts by previous governments and there has been sort of tinkering here and there. This piece of legislation goes a long way to addressing a lot of local concerns on financing and issues such as that, streamlining certain processes, which I'll get to.

We have in some respects a hodgepodge of systems in Ontario. You have different boards, civilian oversight. I'll take an opportunity to commend the intentions of the previous government. From my studies in law, and I did a lot of regulatory stuff when I was at Carleton, and civil law, we need methods for people to address their concerns when they have problems with the police. Somebody has to police the police. I think most people in this province would agree with that, including most police officers.

On the issue of financing, for instance, for someone who is an urban dweller living in Ottawa-Carleton, you have 85% of the people in this province paying for their

police services and 15% not. That's the situation as it stands now. As it stands with the complaints procedure system, you have different routes you can take. I was following some of the committee's initial presentations in Toronto, I think it was two days ago — I'm not sure if I saw the repeat or the actual live one — where you had some of them discussing, depending who you go to, where it will go up through this chain. Something that I took in school, which I'll get to — I'll address some of that with the procedures.

Complicated procedures are not conducive to having the general public come out, and if they have a problem, to have it solved. I studied this in enough legal classes at Carleton. It's a hindrance hiring lawyers. People are disadvantaged in having different levels of knowledge about how these systems operate and a complicated system is not good for the public in general.

That's out of the background. Getting to the issue of fairness, I mentioned about the different municipalities paying and others not. It's not fair that some municipalities should pay for their services while others do not.

The complaints process, because of the nature of it — and you have different routes that, if I follow what I've seen on the previous legislation, people can easily get lost in it, especially if they are not, as I say, connected to the system in the sense that they have the kind of experience; something that we took in Carleton and there's studies to that effect. You'll get this in the first-year law program where it talks about different sociology studies of people being connected to the system, ie, lawyers, judges and even police officers. Educated people, if they have a problem, will find their way through the system no matter how complicated it is.

#### 1430

Amalgamating the review processes — or "streamlining" actually would probably be the better word to use for it — making it uncomplicated for people to come before the system and get their complaints heard would help the general public far better. I think this piece of legislation goes towards addressing that.

I've been following some of the issues. There have been things raised about police chiefs having more say on how that process proceeds. When you look at the issue of local control and accountability, where now municipalities are going to be having a say as to the majority on the police services boards, some of these concerns could be addressed I believe by a police services commission and local politicians, who know their areas far better than, say, somebody in Toronto. They may have a better idea of the histories and things like that. These can only but help local input, can only help the system. You know of situations with police in this area. Everyone's aware of a certain case, which I won't get into, but I think that had local input been heard, you would probably have had a faster resolution for that.

Also, for police officers the system right now is very slow. It leaves people in limbo. That's not good. The length of time it takes to go through the complaints system doesn't help people who are looking for justice either. By streamlining the system and speeding up justice, speeding up the process, it does go a long way to address people who are aggrieved, and any justice



system, any process of review has to address that. Timely handling of a complaint is a way to do that.

When you look at some of the things that are happening throughout the legal system in this province and the western world in general, where we're moving towards the idea of more mediation — and I have to say that the previous government did make attempts at moving down that model — the first line should be mediation. With the kind of oversight you'll see with the changes in the police services boards, local authorities, having a say in who is on that board, can oversee how the police chief is going. Ultimately, the police services board is the police chief's boss; he'll have to answer to that board. I'm a democrat. Things that increase local control and local input are essential to good government.

Streamlining also has an added benefit in an economic sense, in that it saves money. I know there has been some criticism that saving money will come at the expense of people's ability to get to the system and get justice. We need to look at this as a public good in itself — saving money when you do not have the resources to put forward into front-line services. I don't see how someone could criticize trying to redirect money into front-line police services. For instance, our neighbour's house was broken into. This was a few years ago. It took the police two hours to come around and deal with that. People were still in the house.

There are real issues that have to be addressed in this sense in police services where we're in tight fiscal times. We have to look at what's important. Having different committees overseeing the same police service just doesn't make sense; it's a redundancy in the system. I believe the Legislature has the opportunity to construct a system that takes into account fiscal prudence, practicalities of resource management, while at the same time dealing with people's real concerns that they do have avenues of redress if they've been grieved in the system. As I say, in a sense of fairness, in many cases, from what I've been following in some of the presentations that have been put forward to this committee from different segments, mediation will go a long way to solving people's problems with a police officer.

This brings me to local control and local benefits. By having more local representatives on police services boards, this act will allow for some moderate community standards to be applied to police services. I know in the past, being a bit of a news junkie, following some of the things that happened in the Metro Toronto area, there were criticisms of how police services were conducted, especially with the ethnic communities. With municipal government now taking more of a role in policing their own police services, so to speak, this bill will provide more opportunity to have a say in how police services are conducted in your community.

For instance, the regional municipality of Ottawa-Carleton police services are going to have to deal with, as they take over from the OPP, large rural tracts in this area versus, say, the city of Metro Toronto, which as we all know is predominantly urban. With control of police budgets being turned over more so to municipal authorities, this bill allows them the power to allocate resources for what they feel is most important for their constituents,

and their constituents will be able to have some influence. That is a good thing, that is a local benefit and that will help in policing. Metro Toronto may not need the same type of road services this region would need or, say, a region in rural Ontario.

Also, the bill allows for municipalities' police services boards to contract out some services. For instance, outlying, small cities like Brockville or Cornwall really wouldn't have the same resources to man their own, say, IT police unit, this kind of auditing unit for forensic auditing, as Ottawa-Carleton. They could contract those services from the region. You could have a system development where police services become rationalized, become specialists in certain areas. Bigger centres would be able to offset some of their costs by providing services to smaller centres, and that would free up the money they would save at, say, a smaller city such as Brockville or even Kingston, or a small town like Smiths Falls, the savings by buying services from larger centres. They could take those savings and put them into front line, hiring more police officers to deal with crimes or levels of crime that are more prevalent in their area, such as break and enter. In a large rural area, by having that kind of savings, they could put it into putting out more patrol cars in a larger area. That's a public good.

#### 1440

At the same time, it would allow larger centres the ability to lower some of their costs for maintaining things they need to have just because of the nature of how things are conducted in a large urban centre. It's a good way, and it can do a lot for overall policing across the province.

I know there have been some criticisms of this bill for northern communities and rural communities. My understanding, from looking at the Who Does What report that they released, is that they have made contingencies for that. Of course, that's also the job of this legislative committee, to make amendments and make sure things work well for the people of Ontario.

Also, I know there have been some criticisms of the bill and the general thrust of many of the things surrounding this act and many other pieces of legislation that have come down. I'm relatively young; I'm 33 years old. Most of my friends are in the process of buying homes. They have young families. I'm looking at buying a home. One of the major considerations is whether you can afford to live in a certain area. In the bigger package that has come down, which has been labelled mega-week and other names, by addressing the inefficiencies in the tax systems and the way we finance services such as police services, welfare, municipal services, such as education being removed from the tax rolls, will allow people like me, who are in many ways tax sensitive, to afford a home.

Everything in economics is always about trade off of resources. If things can be streamlined, made more efficient and deliver better services, then we should proceed with it. I'd like to be able to own a house, and that's where I'm going to stop.

**The Vice-Chair:** Mr Bowes, I'm afraid your time has expired. On behalf of the committee, I want to thank you very much for your presentation.

**Mr Bowes:** I'm sorry. I was hoping to leave five minutes for questions. Anyway, I apologize that I didn't leave time for questions, but I'm sure this committee is going to hear from a lot more people across the province and there will be some further interesting debate in the Legislature.

**The Vice-Chair:** There will. Thank you, sir.

#### CITY OF CORNWALL

**The Vice-Chair:** Our next presentation will be Ron Martelle, the mayor of Cornwall. Good afternoon, sir.

**Mr Ron Martelle:** Good afternoon, Mr Chairman.

**The Vice-Chair:** As a former TCTI student, I know the city well. It's a wonderful place. It's good to see you here.

**Mr Martelle:** Thank you for allowing me the opportunity to be here, Mr Chairman and committee members. Mr Christopherson, how are you, sir?

**Mr Christopherson:** Very well. Yourself?

**Mr Martelle:** Very well, thanks. I would like to say it's nice to see everybody so attentive. When I appeared at the federal standing committee on justice for the Young Offenders Act a short while back, it was nothing but a charade, between people telling jokes and not paying attention. It's nice to see that we have the full attention of this group here, so thank you very much.

I would like to say, to start with, that three years ago I gave a recommendation to the Canadian police board association, which was mentioned in one of their reports, that perhaps we should be choosing a police services board in any municipality like we choose a jury. That means that you may have a pool of between 12 and 15 people submitted, and in consultation with the Solicitor General's office, the local municipality and the local police board association, you would pick, in our case, in the city of Cornwall, the five members who would be the most responsible and do the job in the most capable fashion.

That way you would eliminate the animosity six months or a year down the road of somebody taking some kind of directive that they didn't want this person on the board. You all agreed; you all concurred. That would certainly eliminate, in my estimation, the arguments involved, which are not beneficial to any police force or any municipality, let alone the Solicitor General's office.

That being said, I would like to say that I strongly support Bill 105. I think it goes a long way to correcting any misunderstandings or anything that was there in the past that led to animosity.

I'm glad to see Mr Christopherson here because, again, one of the things that was addressed — and before I address Mr Christopherson — municipalities, as is well known, have provided the funding for the local police forces. That being said, I certainly am not a proponent of municipalities having control per se, because that could also lead to a certain amount of danger down the road. But I certainly concur with and fully endorse the way Bill 105 is set up, especially whenever the funding is coming from the local municipality. We all know the situation that we're all in, no matter what level of government, and

particularly whenever we get down to the bottom level, and that's the municipalities, where we're struggling for every dollar.

It's nice to see that defence lawyers have now been omitted and taken off police services boards. We had a situation in Cornwall — and I refer to Mr Christopherson not out of any bitterness or anything else, because Mr Christopherson and I got along very well when he was the Solicitor General — but our chairman of our Cornwall Police Services Board then was a defence lawyer. Talk about a conflict of interest whenever his employees, the police officers, were in court and he was defending the same people that they arrested. That went on and nothing was done.

We've gone through two inspections in Cornwall. The latest inspection report was done in 1993. I see in the audience we have the Solicitor General's adviser for the Cornwall Police Services Board here. One of those recommendations, I believe recommendation 41, was that the mayor be removed from the police services board. I more or less told them in no uncertain terms, as Mr Christopherson well knows, "Try and remove me from the board, and I'll see you in court." I have an obligation to the taxpayers of the city of Cornwall and my municipality. The day I'm instructed to wear two hats, that the Police Services Act states the mayor shall be a member of the police services board and I'm instructed to walk into a police services board meeting as a member and I cannot speak as the mayor of that municipality, something is drastically wrong. That's why I'm very pleased to see some of the recommendations in Bill 105.

I'm also very amazed that we spend so much time addressing the actions of our police officers. The criminal element of this country, or in this case this province, must be having a field-day when we're spending more time addressing what police officers do right and do wrong as compared to what the criminal element does. We all saw the big billboard up in Toronto: "Go ahead, call the police. There's more of us than there is of them." When are we ever going to learn that there are good guys, who happen to be police officers, and there are bad guys, who happen to be the criminal element, the low form of life on this planet?

We keep placing rules before police officers. We keep creating bureaucracies to deal with them. Because we have one or two who breach a code, we punish them all. We waste more time, more energy and more money dealing with police officers and their actions than we do with the criminal element, because God knows our courts sure as hell don't deal with the criminals in the proper fashion. I would strongly suggest that we put our energy behind our police officers.

Getting back to the police services board makeup itself, I fully support this because I'm disappointed in what we had as a police services board in the city of Cornwall. God knows I'm not perfect, but I'm not the whole problem whenever it comes to police services boards. We have one now that if we're not careful, with the way the city of Cornwall is — everybody knows about our smuggling problems. Everybody knows that we have serious drug problems. In fact, we just had a major takedown last night where the Ottawa-Carleton force was



involved in helping out the RCMP and the OPP and the Cornwall city police.

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We also have roughly an 18% unemployment rate. We're number one in social benefits in the province of Ontario. It really bothered me when our local police association wrote a public letter to the editor about a month ago. They're extremely concerned about what's happening with the Cornwall city police department itself and administration. Our police services board, knowing all the problems Cornwall has, knowing that we need the morale of our police officers at its highest to combat this crime and protect our citizens, because they're the bottom line, has not even addressed that situation yet. Therein lies the danger: that a police board then becomes a chief's board. The tail wags the dog. It's very disappointing for me.

I'm sure you people are going to be hearing much more about the Cornwall Police Services Board, because while I was gone to BC two weeks ago for meetings of the national board of directors of FCM, my resignation was once more addressed. It reminded me of the old west: Whenever the sheriff is out of town, that's when all the ruckus takes place. I'm out of town and my resignation is asked for. Well, again, in plain English, they can take their resignation and put it you-know-where. I will not be resigning.

That being said, I'm sorry if I'm a little bit straightforward, but whenever you're as passionate about law and order and the safety of your citizens in a community that's been greatly affected by not only the local criminal element but organized crime, including biker gangs — and my family has suffered — I take great exception to any police services board becoming political. This bill, I believe, addresses that, so thank you very much. I'm prepared to answer any questions.

**The Vice-Chair:** In fact we do have time for questions. Three minutes per caucus.

**Mr Ramsay:** Thank you, Mayor Martelle, for your presentation today. I just want to say that it is very refreshing to have a presentation that's given straight from the hip. I'm sure that's why you remain popular in Cornwall and continue to be the mayor, because of your straightforwardness, and it's refreshing to see. I think more politicians at all levels should be as straightforward as you are. I appreciate your advice on this, and I'll certainly take all your points into consideration when we look at making amendments maybe to make the bill even better.

**Mr Martelle:** Thank you very much, Mr Ramsay.

**Mr Christopherson:** Mayor, good to see you again.

**Mr Martelle:** Same here, sir.

**Mr Christopherson:** It's always — what's the right word? — interesting to revisit Cornwall policing. Certainly, it runs the gamut from the ridiculous, quite frankly, to some of the most serious things that I dealt with during my tenure in office.

You mentioned a number of areas. I wish I had a little more time. What I would like to focus on first is that you mentioned that more energy should be put behind police officers, and that's coupled, of course, with your support of Bill 105. I'm sure that you're aware that the Police

Association of Ontario, the PAO, has very serious concerns about some of the rights of individual police officers, something you're familiar with both personally and through a close family member. They go on to say that Bill 105 will strip police officers of most of the protections they need. They also say that Bill 105 must be significantly amended where it strips police officers of their rights and safeguards. I wondered how you felt about that comment by the PAO.

**Mr Martelle:** I speak for my local municipality, and I have not heard that from my local municipality, and that's what I'm most concerned with right now. I don't know what the provincial body has had to say on that, but I speak for our local situation.

**Mr Christopherson:** I suspect that if they feel similar, you'll hear about that quick enough.

The other thing I wanted to address is the Ontario Association of Chiefs of Police. They state, referring to the shifting of the power on boards from the province to municipalities, "We are concerned that this decision will lead to greater political interference in the day-to-day operation of police services."

We've heard that this means both overall budget priorities and whether policing will have a lesser priority, given the other pressures that are on municipalities, and who controls the budgets and those same people having the majority control on boards. It ranges from that to the day-to-day, where there's a possibility of a local police chief receiving the same kind of pressure from a mayor that, say, a department head would. I wondered what your thoughts are on that.

**Mr Martelle:** Depending on which police chief said it — like politicians, we have good police chiefs and we have some who are not so great, who should be politicians in their role.

**Mr Christopherson:** I think some try.

**Mr Martelle:** It reminds me of Bill C-68, the gun control bill. I won't get into that, but it's a gun registration bill. The Canadian chiefs of police backed that because Allan Rock had more or less told them he was going to trade that off for section 745. They got shafted on that deal. If we're looking at what maybe some police chiefs said, I really don't put much stock in it, to be honest with you.

**Mr Christopherson:** Do I have any time left?

**The Vice-Chair:** You have about 30 seconds.

**Mr Christopherson:** I'll try to leave you a moment to at least comment. My concern is some of that straightforward — the good guys and the bad guys. The reality is, whether we're talking politicians, whether we're talking priests, whether we're talking police or any institution in our nation, there are within those good and bad. Part of the civilian oversight issue is to make sure that in a free democracy we have the protection we need from those bad ones. Hopefully they're very few, and I believe they are, but we do need to have that protection. Having said that, do you still think it's that clear that it's all the good guys here and all the bad guys there? Is it really that simple?

**Mr Martelle:** If you look at the real world and not at it through rose-coloured glasses, every time something comes down about a police officer, there's a big hue and cry for shooting somebody. We had a situation in Ottawa

not too long ago here, where the police officer shot the gentleman who took a meat cleaver to his partner. There was a big hue and cry about that. That's a case of black and white. In probably 99.9% of the issues, Mr Christopherson, it is very clear. We seem to waste more time, energy and criticism investigating police officers than we do the real bad guys.

I must say, before I leave, that Mr Christopherson — and I must say this because I haven't seen him for a while — while he was Solicitor General and my family and I were in hiding, was a real gentleman and in fact called every week to check on the welfare of my family. I appreciate the time, and it's very nice.

**The Vice-Chair:** We have the Conservative caucus left for questions. I've got Mr Carr and Mr Tilson.

**Mr Carr:** I'll be very brief. Thank you very much. In my travels, I had an opportunity to be down in your area and speak to some of the probation and parole people. You were there bringing greetings, and we had a chance to chat. It is a little bit off topic, but I just wanted to see how the situation is going in your area. You mentioned some of the economic problems, which we've been following with great interest. It is a little bit off topic, but maybe you could just give some of the members an update of what your circumstances are like down in Cornwall.

**Mr Martelle:** There was an article that we all took great exception to in Cornwall last Friday out of the Ottawa Citizen, where they painted the bleak side of Cornwall and went so far as to call Cornwall's workforce illiterate, which certainly hurts. We have just formed Team Cornwall, which is over 100 members of the business community, volunteers who come forth with a great deal of initiative and enthusiasm to sell the city.

We are struggling unemployment-wise. We are struggling in terms of social benefits; people draw on that. We all know the situation at the border in Cornwall with Akwesasne so close by and the amount of organized crime that rests in that area. Believe me, I'm not speaking strictly Mohawks here — a small percentage; I'm speaking about the other elements of organized crime. We have major problems, and I've addressed those with the government. As you well know, we have not moved 20 miles to the east; we're still in Ontario. We're not in Quebec, in another province. Hopefully I will rectify that with our certainly conscientious, wisdom-minded federal government in the near future.

By the way, you play very well, Mr Carr — very impressive.

**Mr Carr:** Politically or hockey?

**Mr Martelle:** Hockey, sir.

**Mr Carr:** I must not have been too good at hockey, otherwise I wouldn't be sitting here.

1500

**Mr Tilson:** Mr Mayor, we all acknowledge that you are qualified to come and talk on the topic of law and order, and we appreciate your taking the time to come and do that. I have one brief question, and it may be a technical question. You commented on the eligibility for people sitting on police services boards and you specifically referred to the issue of defence counsel as not being eligible.

The two previous sections talk about the term of office of the police services board and the reappointment issue. I don't know whether you're familiar with those two sections. The sections, in my view, give a fair bit of leeway to a municipal council as to the term of office. I suppose it could be almost anything for the term of office. It could be for a year or it could be at the pleasure of council. There could be a wide variety of interpretations, and the same goes for reappointment. With respect to the term of office, do you have any comments on whether those sections are appropriate, whether municipalities should be given that leeway?

**Mr Martelle:** I think they are, but time will certainly tell. Mr Christopherson brought up a point where there's always a danger, as we all know, in anything where — I certainly have been hesitant seeing a municipal council trying to stick their nose into the affairs of the operation of the police department itself, and I don't think that's proper. In this case here, where we have a person who's appointed by the municipal council as the fifth body on the board, you would have to be extremely cautious. Hindsight is excellent, isn't it, if you appoint the wrong person? I guess only time will tell, Mr Tilson.

**The Vice-Chair:** On behalf of the committee, Mr Martelle, thank you very much for your presentation.

**Mr Martelle:** Thank you very much for having me here again.

#### CAROL FLETCHER-DAGENAIS

**The Vice-Chair:** The next presentation will be Carol Fletcher-Dagenais. Good afternoon. You have 20 minutes for your presentation.

**Ms Carol Fletcher-Dagenais:** Thank you. I won't be that long. Mayor Martelle is obviously a hard act to follow. I'm going to try and be as brief as I can, given the late hour of the day.

First of all, it's an honour to appear before you today with respect to Bill 105, a bill that focuses on a different way of delivering police services in Ontario.

My remarks will be reflective of my role as both a taxpayer in a rural community and as a criminologist completing my master's degree in this field at the school of criminology at the University of Ottawa. My undergraduate thesis centred on police discretion in Canada, and my graduate thesis involved an analysis of oversight mechanisms vis-à-vis Canada's federal security agencies.

Not relying on academics alone, among other roles I have also had the benefit of experience in the field of crime prevention, completing two terms with Halton Regional Police force, as well as a term with the Royal Canadian Mounted Police in Ottawa.

Of note as well is my participation in the formulation of criminality provisions within the Immigration Act of 1992 and my policy advice to the Senate of Canada on recent changes to the Immigration Act that serve to tighten loopholes that had allowed criminals to enter or delay their removal from Canada.

I would like to begin by stating that I was 12 years old when the last substantial overhaul of policing in Ontario was conducted. Without giving away my age, suffice it to say that I think this bill is long overdue.



I understand it to be the view of this government that public safety remains paramount in any proposed changes to policing in this province, and please note that I share this commitment. It is my view that the people of Ontario want to feel safe within their communities, and I would not support any legislative aim that did not adhere to the principle of public safety in all our towns and cities.

I believe the standardization through regulation of the core elements of the policing function ensures commitment to public safety in a way that is both transparent and accountable. In providing a clear delineation of the policing mandate, the legislation will allow those who are sworn to serve and protect a clear and firm basis to perform their important roles. In addition, the people of our province will know that an integral level of service will be maintained and/or enhanced and that it will be more in tune with local requirements.

The fact that these elements — crime prevention, law enforcement, assistance to victims of crime, maintenance of public safety and emergency response — will be openly defined will contribute significantly to uniformity and fairness across all our communities in Ontario.

Local communities will also now have direct and real control over the police services boards or advisory committees that play a pivotal role in defining policing priorities. Local representatives are very familiar with the security requirements of their towns and regions. What is a policing priority, for example, in the city of Ottawa will not be the priority in my area, which is the township of Clarence Creek, nor should the priorities be the same. In allowing greater municipal control over the delivery of police service, the province is recognizing that local residents are able to confront the challenges inherent in their community while maintaining the main precepts of the police function.

I understand, and this was echoed by Mayor Martelle who spoke before me, that the municipalities have been calling for greater control over policing in this province for some time now, and I am pleased to note that municipal representatives are supportive of more local control in this area.

Bill 105 also rights a wrong, in my view, that has continued for far too long, and that is the inequity in financing police services among municipalities. Coming from a small rural community that contracts with the OPP, I expect to continue to pay my fair share to protect my family, home and community; I expect no less from other taxpaying Ontarians. To note that the status quo dictates that other municipalities have not made this contribution towards policing services is unacceptable and deserves to be rectified in this legislation.

Having studied policing and oversight mechanisms, I believe that the importance of policing the police should not be diminished. What has not worked, however, is having a disparate approach to oversight, wherein a number of different government bodies comprise an oversight role.

As all of you are aware, local chiefs of police, police services boards, the Divisional Court, the Solicitor General of Ontario and the Attorney General of Ontario and their respective ministries, two quasi-judicial tribunals, the Ontario Civilian Commission on Police Services,

the office of the police complaints commission and the board of inquiry hold purview in terms of police oversight in Ontario.

The present system is a recipe for error in its overlap of mandates and operations and serves to delay justice to those seeking a swift resolution to their complaint. I have seen at first hand different departments charged with protecting our citizens competing with other departments, as dictated by confusing mandates, and the resultant duplication of efforts, lack of communication and lengthy delays that can sometimes lead to very real tragedies.

By regulating a 30-day response time to complaints, the government is addressing a serious failing in the current system of oversight. Ontarians will have no faith in a system of oversight of police services if their justice is continually delayed. By providing a time standard, the legislation signals a tangible commitment to provide fair and expeditious resolutions to matters that, if delayed, do not serve the interests of those bringing a complaint, nor the policing service in question.

The simplification of the procedure for launching a complaint will also ensure accessibility by individuals or groups in the local community. This system must be easily attainable in order to encourage those who may not have come forward in the past to allow them to be made aware of the complaint procedure.

In addition, I understand that an avenue of appeal has been included within the provisions in order to provide an opportunity to those who believe their complaint was not dealt with to a satisfactory conclusion. This appeal mechanism has not been highlighted by the critics of this legislation. In my view, it addresses the concerns expressed by those who do not invite change, however long overdue.

These are my views, and I welcome any of your questions or comments.

**Mr Christopherson:** Thank you for your presentation. I don't have a lot to comment on. Obviously, if you've heard some of the comments earlier, I'm not as confident as you about some of the changes. But given the fact that you put emphasis on, and I think correctly so, the need to streamline and make more efficient the complaints process, I don't believe at the end of the day the government has come up with a process that is beneficial in the long run. I think it does some real damage in the community. However, that aside, I certainly agree that it needed to be streamlined and made more efficient.

**1510**

You make comment about the need to leave paramount public safety. I wonder if you are aware that the \$3 million being saved through the efficiencies are not being poured back into front-line police services, into police training, into the ministry. That \$3 million, from what we can tell, is just being absorbed and is gone and will probably constitute part of the 30% tax cut. The fact of the matter is that the money saved is not going back into policing. How do you feel about that?

**Ms Fletcher-Dagenais:** I'm not sure I totally agree with your comment. If it does go into some sort of consolidated revenue fund, the government has made it quite clear that its priority will remain in terms of ensuring public safety. I'm not sure whether collapsing



all these different organizations that have been charged with oversight mechanisms and realizing the natural economies of scale that allow for this is necessarily a negative thing. No, I think savings can be recognized in this area, and as a taxpayer I applaud this bill. No, if I thought it would compromise or not serve to enhance what the government is doing in this area, I wouldn't be here before you today.

**Mr Christopherson:** We'll agree to disagree on the outcome. Words are easy, particularly in our business. We give words, as politicians, all day long. What really matters is action. Don't you think it would send a far stronger message if the government said, "Every penny we're saving in streamlining and making more efficient any part of policing will be reinvested back into policing, particularly front-line policing"? Wouldn't that be a stronger message in terms of confirming that policing is of paramount importance?

**Ms Fletcher-Dagenais:** First of all, I'm not a politician; I'm here today as a member of the community. I believe this has been called for for some time now. When you talk about action, we're seeing it. This was noted, I understand, when you were in government by the Auditor General at the time, that there was a real problem in this area. Frankly, I'm glad that the government is moving in this direction finally at this time.

**Mr Christopherson:** So you're satisfied that the money is not going back into policing.

**Ms Fletcher-Dagenais:** No. I disagreed with you, if you remember, in my response to your first question.

**Mr Carr:** Thank you very much for your presentation. Being a former Oakville resident, it's always pleasant to get up here. I didn't know till we got here and saw that your mother is in the audience too that she's been up here for about a year now.

**Ms Fletcher-Dagenais:** That's right, and she would love to have been able to come up and speak herself.

**Mr Carr:** I appreciate that. It's always a pleasure. Even though some people move out of Oakville, it's amazing how we can go anywhere and see them. Thank you for coming in.

My question relates to the oversight and the situation with OCCPS and its powers and responsibilities. As it is laid out now, is there anything else you think we can do to improve the bill in terms of the structure of the commission? Is there anything else you would suggest we do?

**Ms Fletcher-Dagenais:** Not necessarily in terms of the legislative provisions, but there should be an effort made by the government to let the communities know about the easy access now to lodge a complaint. That will go a long way, because if people see that there is fairness and accessibility, I think you will have achieved a lot in that respect. To communicate the fact that this is available now and to work within the community groups to do this as well will be very beneficial for you. That's more in terms of an operational consideration after the bill is implemented.

**Mr Carr:** One little follow-up. As you know, there was some discussion on that point about the situation with third parties being able to assist. We did really try to make it easier in terms of not having forms, that you

can write a letter and so on. You're right. There was some concern about how third parties can be involved. While they can't make the complaint, they certainly can still be involved in terms of helping people. They can go directly to OCCPS with a group, helping an individual put the letter together and fax it into OCCPS. I think there was some concern with some of the community groups that they wouldn't be able to assist.

Outside of trying to get out what the role could be, is there anything else that can be done to alleviate those fears? They made some valid points that some people in the community want to ensure that if somebody has a problem — we tried to make it as simple as possible for anybody, whether they be community groups or physicians, to help to get it in. Is there anything else you think we can do other than communications to alleviate some of the fears out there?

**Ms Fletcher-Dagenais:** Being in this area of security and trying to be in tune with the concerns of the community groups, it's beneficial that you're putting some of the control in with the municipalities, because they on a day-to-day level are dealing with the people within their community who are represented on these community groups. I think a natural extension of the legislation will lead to more awareness of what you're trying to achieve here just in terms of the local level.

I think that's going to go a long way to dealing with these concerns. You've had them speak before you. Frankly I've heard some of the concerns. When I worked on the immigration bill, for example — and I heard Mr Borovoy's comments recently. He also commented on the immigration act, which we were changing, and he said by putting in the criminality provisions we did, we were doing deportation by clairvoyance. Well, I can tell all of you gentlemen here today that we've used that act successfully to remove terrorists and organized criminals and the like from our streets. If I was to listen every day to some of the criticisms that have come up before your committee and other committees I've participated in, we would have no action whatsoever.

**Mr Ramsay:** Thank you for your presentation. I believe you were talking about a time standard for the investigations of complaints. I agree with that. Do you have any sense of what those standards should be?

**Ms Fletcher-Dagenais:** If I'm wrong I stand corrected, but I think a 30-day time frame in order to report back to an individual will give ample time. If there is a case that it's a very extensive investigation or if more time is needed, I don't know if the committee is considering allowing for a written request for an extension or whether that's even being considered, but that might address some of the concerns of the groups that have come before you if they are arguing that is not enough time to adequately deal with a particular complaint. That might be given some consideration.

**Mr Ramsay:** We certainly had some groups come forward and say, for instance, on the more serious investigations that the SIU has to follow up on, that they would like to see some sort of time standards and limitations so these investigations don't appear to be going on indefinitely. Also, many have brought up the idea, especially families of victims, that there be in a



timely manner some disclosure of the progress of the investigation so the families can have some certainty that at least progress is being made. What would you think of that?

**Ms Fletcher-Dagenais:** I said in my comments that transparency is very important. When you're getting cases that are before the SIU, they're nominally very tragic and very serious situations. If you're ensuring a process that is fair to those who lodge the complaint, maybe there should be some consideration to providing an interim report or progress. I wouldn't necessarily disagree that that might be a good idea.

**The Chair:** Thank you very much for your presentation here today.

1520

#### TOWNSHIP OF WINCHESTER

**The Chair:** The next and last presentation for the day is Wyman Barton, the deputy reeve of the township of Winchester. Welcome, sir.

**Mr Wyman Barton:** I have here two newspaper articles from local weekly papers, the Chesterville Record and the Winchester Press. They're both about policing and I thought members may be interested in them.

I thank you for the opportunity to share some thoughts about the restructuring of police services and how it might affect a smaller rural community. Perhaps contrary to most belief, we in rural areas can be more accepting of change than is generally thought of. I think of some of the hospital decisions that have been made. Change is okay, as long as it's a positive result in the end.

I'm deputy reeve in a small township. It's located about half an hour outside of the city of Ottawa. Our overall community surrounds the friendly city of Cornwall, which His Worship Martelle has just described. We're right in that area.

We're definitely one of the 576 municipalities that receive police services funded by the province at this time. Our county government — that's the united counties of Stormont, Dundas and Glengarry — presently has 20 municipalities. We've recently submitted a plan to reduce from 20 to six municipalities, basically two per county. Our total population in that regional-type government is about 55,000. Our proposed plan is to retain county level and to assign police services to this level of government.

This will be a totally new area for us to manage: new challenges, even new vocabulary. I saw things like "uniformed employees," "prisoner meals," as I was reading through some of the literature — totally new to us as a department of responsibility.

We want to keep our options open. Presently, the OPP serves all of our communities, with the exception of the town of Alexandria. We have OPP centres in Long Sault, Morrisburg, Maxville and Winchester.

One concern we have about reorganizing into a larger centre is a loss of volunteer organizations. A number of our communities have already organized Community Watch programs to help with the crime in rural Ontario, and they work cooperatively with the OPP. It has pro-

duced results. The article from the Chesterville Record is recognizing one of those gentlemen in that community as an auxiliary police officer. I feel it is very important that individuals offering this time and personal expense be properly recognized. Possibly we should be pursuing mechanisms for these programs, and individuals can be regularly recognized.

We are also very much aware that to maintain our present level of policing, we have to have an organization from a viable and large enough population base. That's why we want our options left open. Could we look at neighbouring municipalities as well, so we can afford a police chief and the other officers that go along with a total police force?

We do recognize we have a lower tax base in a smaller population. More than likely, we'll be requesting assistance from the reserve fund promised by the provincial government due to this added responsibility. Communities such as the city of Cornwall, which you just heard from, are already providing police services; they have to be in a stronger position than those introducing police as a new service.

However, we support the concept of having local input. Rural taxpayers have complained for years about having to live with and adjust to decisions more suitable to urban situations. We've had an OPP officer speak to us at county council, and he stated that they certainly have empathy with the people reorganizing in local government, because they have already been through the situation of cutbacks and reorganization.

As stated earlier, input is important, and these changes will eventually affect the police officer and their duties and responsibilities. I would be prepared to predict that rural policing will require more flexibility, and the importance of being familiar with his or her community is of utmost importance.

Crime in the smaller areas appears to be on the increase, especially theft on the rural properties and isolated roads and that. The criminals are having a heyday in those situations. I pass the article around from the Winchester Press; that came out in this morning's paper.

I understand that the OPP is planning to provide estimates of actual costs per municipality by early April. I have not seen written information, but I understand there would be some cost recovery from fines paid for traffic violations etc.

Another question I have is, who decides on the actual job description for police employees? Does it really require a fully qualified officer to issue minor traffic violations?

It is also my understanding that a process will be clearly defined to deal with accountability of the police force staff itself, and also a process for an individual to appeal directly to the Attorney General's office in the event of alleged unjust treatment.

In conclusion, we are no different from anyone else regarding changes, but are definitely willing to take on a new responsibility, that of providing police services for our community. I would just like to stress to this committee the importance of your keeping in mind the financial dilemma of having a low population base and a low tax base but similar expenses. I thank you once again for

having an opportunity to express my points. I wish you well in your final deliberations.

**Mr Tilson:** Thank you, sir. I've indicated that in my community, which has a population of about 80,000 people, we've got four police organizations. One's part of a regional force and one's an OPP detachment, and then there are two small municipal police forces, all of which operate differently in many respects. The particular municipality I live in is similar to the one you live in: It's a township and we don't pay for policing. We're one of those municipalities around the province that don't pay.

I'm interested, obviously, from a personal perspective and also in talking to other municipalities around the province about how you intend to deal with the fact that all of a sudden, as of January 1, 1998, all municipalities will be obliged to pay in some capacity? Outlined in the act are the different alternatives of retaining an OPP force or becoming part of a larger system, but the fact is that it's going to be an expense to your taxpayer.

I don't know what sort of debate you've had in your municipality, if any, but I'd be interested in how you intend to integrate that issue from a financial perspective into your community.

**Mr Barton:** As I stated in my comments, we're going from 37 representatives in our county council down to a possible 12, with six newly founded municipalities. Those 12 elected people are going to have the challenge of accepting a contract from OPP or a combined contract; maybe the city of Cornwall, maybe other people would be involved. They are going to have to take that new-found expense, combined with other new-found expenses, and hope it's less than the education dollar. That's where we're at.

**Mr Tilson:** There will be other issues, of course, like provincial offences. I don't know whether it would be part of your municipality; it would be part of that area. There will be other areas in which municipalities will be getting involved.

**Mr Barton:** Most definitely.

**Mr Tilson:** You raised an issue of volunteer organizations, I suppose the need for that. In my community I know there are more volunteer organizations, from watching what's going on on the highway to Block Parents to — you can go on and on. I wonder if you could elaborate a little more as to what's going on, particularly in the rural communities.

**Mr Barton:** Yes. I just recently joined Community Watch. It is quite a commitment. You make a decision to join the group. You meet with another person. In a small community, you would take your own vehicle. You have a phone made available to you that you can contact the local OPP immediately if needed. You basically are up and down the streets for a five- or six-hour session. It has improved the rate of petty crimes; there have been noticeably fewer petty crimes in the village I've helped out with.

**Mr Tilson:** Those organizations are working in conjunction with the local police authorities?

**Mr Barton:** Most definitely, yes. We phone in and make our contact, tell them our names and where we can be reached and we have a mobile phone at all times.

**Mr Tilson:** Thank you very much, sir, for coming and providing your observations on the bill and policing in general, particularly in the rural areas. We appreciate it.

**Mr Ramsay:** Thank you, Mr Barton, for coming and also for providing the news clippings. It gives us a feel, as I presume you realized, of what's going on in your area. That's very helpful for us. We don't necessarily get all sorts of local press, so it's very helpful for me to get oriented to what's going on in your neighbourhood.

In your response to Mr Tilson's questions, am I to understand that the county hasn't yet made a decision on how they're going to procure their policing?

**Mr Barton:** No, we have not made that decision. We've had the OPP officer in to speak to us and just to invite us to a partnership, but there's certainly been no commitment, no decision made at this time.

**Mr Ramsay:** Part of the problem right now is that if you just decide to let the OPP police the area, at this time you don't know what the per household charge is going to be.

**Mr Barton:** No. I only know that we were getting information about so many dollars per household, but I understand that's been denied and they will quote us an actual cost per municipality. It'll be on the needs of the community, not on a per household basis. I guess you could always divide it, but that's the way I understand the contract will be arranged.

**Mr Ramsay:** So your understanding is that each municipality would be billed a lump sum?

**Mr Barton:** I would imagine mileage would be a factor, the degree of crime historically may be a factor. But it is not, to my understanding, based strictly on households.

**Mr Ramsay:** So right now you don't have a sense of what that might cost.

**Mr Barton:** No, I don't.

**Mr Ramsay:** But you are looking at it on a county level, potentially either through contract or through the levy the OPP would charge; doing it on a county level.

**Mr Barton:** When we decided on amalgamation, we made decisions on certain responsibilities for county. We decided police services would go to county, and others such as waste management.

**Mr Ramsay:** Thank you and good luck with that.

**Mr Kormos:** Thank you, Mr Barton. As has been pointed out, this is a very different perspective than what we've heard the last couple of days in Toronto. I appreciate your — I trust it's still optimism that the elimination of education as a cost to the municipality overwhelms the new costs. God bless. Thank you once again, Mr Barton.

**The Chair:** Thank you very much, sir. Those are all the questions we have. Thank you for attending today.

**Mr Ramsay:** Where are we tomorrow, Chair?

**The Chair:** Tomorrow, we are continuing the hearings at the London Westin Hotel, starting at 10:40 in the morning. For those who wish to go by bus, it will be leaving at 7:30 am from the front door of the Parliament.

If there are no other matters, I would like to see the subcommittee before we leave today for a short meeting. We are adjourned.

*The committee adjourned at 1534.*









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## **Legislative Assembly of Ontario**

First Session, 36th Parliament

## **Assemblée législative de l'Ontario**

Première session, 36<sup>e</sup> législature

# **Official Report of Debates (Hansard)**

Thursday 20 March 1997

# **Journal des débats (Hansard)**

Jeudi 20 mars 1997

## **Standing committee on administration of justice**

Police Services  
Amendment Act, 1997

## **Comité permanent de l'administration de la justice**

Loi de 1997 modifiant  
la Loi sur les services policiers

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LEGISLATIVE ASSEMBLY OF ONTARIO  
**STANDING COMMITTEE ON  
 ADMINISTRATION OF JUSTICE**

Thursday 20 March 1997

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
**COMITÉ PERMANENT DE  
 L'ADMINISTRATION DE LA JUSTICE**

Jeudi 20 mars 1997

*The committee met at 1041 in the Westin Hotel, London.*

**POLICE SERVICES AMENDMENT ACT, 1997  
 LOI DE 1997 MODIFIANT LA LOI  
 SUR LES SERVICES POLICIERS**

Consideration of Bill 105, An Act to renew the partnership between the province, municipalities and the police and to enhance community safety / Projet de loi 105, Loi visant à renouveler le partenariat entre la province, les municipalités et la police et visant à accroître la sécurité de la collectivité.

FRANK MAZZILLI

**The Chair (Mr Gerry Martiniuk):** Good morning, ladies and gentlemen and members of the committee. This is a meeting of the standing committee on administration of justice and its deliberations in regard to Bill 105. The committee welcomes Mrs Boyd from London to the committee.

We will proceed with our first presenter, Mr Frank Mazzilli. Welcome, Mr Mazzilli. We have allotted 20 minutes for your presentation.

**Mr Frank Mazzilli:** Thank you, Mr Chairman and members of the committee. I'm a police officer in London and a citizen of this community. My concern with the amendments to this bill are adequacy and how that will be addressed as far as maintaining minimum standards are concerned for municipalities that continually cut police budgets. I will start with some examples in London of crime prevention — this is addressed in the bill — and what people's interpretations of crime prevention are.

In London crime prevention programs consist of education and enforcement. The one thing that's often ignored in any prevention program is enforcement. We had a situation three years ago at York and Richmond streets in this city. The situation was that at 1 o'clock in the morning probably 10 bars with capacities of 500 to 700 people were let out at the same time every night between Friday and Saturday. This resulted in 5,000 to 6,000 people on the streets creating problems in the way of property damage, serious assaults and people having to go to the hospital, and when we talk about that there's an element of health care that enters into it.

I conducted a study over a period of four to five months, and it simply showed that when the police were not around between the times of 9 o'clock and 2 o'clock, as the bars were letting out, we would be investigating 10 to 15 serious assaults after the fact. On the weekends we were there — it takes some time to get hold of a

problem — there would likely be one assault, a couple of thefts, but nothing in the way of serious injury to young people getting out of the bars.

This is a serious concern as far as adequacy is concerned. It simply reduces the crime rate by taking preventive measures. The first thing people look at as crime goes down is a reduction in service. There are those who will say that there's not a problem any longer, that if this problem is not there and the crime rate is going down, we need to reduce the number of officers. As soon as we do that the problem starts all over again.

Certainly, members of municipalities, provincial governments and federal governments will step in when there is a problem, when there's an outcry from the public. As soon as that problem is under control, everybody steps back and there is no maintenance for a problem. I believe adequate funding needs to continue, and it needs to be addressed in this legislation for all municipalities.

I will stop there and take any questions from the panel.

**Mr David Ramsay (Timiskaming):** Thank you very much for your presentation. You illustrate some concerns many of us have with municipal policing services, with the fiscal pressures they're under today with the cutbacks from the federal government to the province and from the province to the towns. Then when we come to this bill, through Bill 105 the province is giving basically total control of the budget of the municipal police force, as you know, to the local police board, which now will have majority control by the municipality.

If this is the situation you tell us about in London at this time, with the changes from Bill 105 it could even exacerbate the situation as the city could now say, "With all the different things that have happened to us and the pressures from the voters not to raise property taxes, we're going to have to cut the police budget 10%." Now the council would have the power to do that.

This is a big concern we have because adequacy is important, to make sure the people of Ontario have the police services they want and deserve. You've really highlighted one of the weak parts of this bill. It's tough for us as legislators, because on the one hand I don't like the idea of the government being paternalistic, being the big daddy for the towns. We have very responsible women and men who are elected to office and run our cities, towns and townships right across Ontario. But there are areas of provincial interest that I think society as a whole in the province is very concerned about and I think policing is one of those, that we have adequate service. So it's a real concern.

With the situation you talked about with the bars being let out, what sort of complaints maybe were generated



from that and what did the chief try to do to alter the shifts or something to try to cover that troublesome time spot?

**Mr Mazzilli:** My concern is with adequacy also. I believe that can be addressed in the regulations. I'll start with that answer.

That was simply one example of crime prevention. When we talk about crime prevention, many people will take the education end of it: educate the youth, educate the public. There needs to be crime prevention through enforcement, through high-profile policing. High-profile policing is simply being in that area at the time when the problems occur. Just by being there you prevent a lot of crime. If you're not there, you get into the assaults, into property damage to buildings.

When you have a problem of that magnitude, at that point the chief had to create a unit to deal with that. The first thing you can do to reverse the problem is to put resources out there. After that occurs, you need to maintain for the problem. You don't need the same amount of resources but you need to continually be there. Instead of being there with 10 officers, you can scale that down to two or three and maintain the problem.

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There needs to be maintenance for crime to be prevented and reduced. Continually, police forces and legislators look at crime statistics to justify their existence and we need to get away from that mentality and look at, what are we doing with our resources? If crime is going down in a city, in a province, that means resources are going into the problem and that's why we're seeing the reductions. Police forces that have reductions should be commended for that. They're doing something right. They're identifying the problems and they're initiating problem-oriented solutions to those problems.

**Mrs Marion Boyd (London Centre):** Thank you for coming, Officer Mazzilli. We really appreciate the fact that you, as an individual officer, wanted to address this question.

It's important for the committee to know that London already has a fairly lean police force in comparison to many others, and has taken a very strong stance on the necessity to try to deal with new methods of policing, to have the police involved in prevention.

I know we've had discussions here about the role with youth and we've had discussions about the need to maintain our family response team with the police, to give you the kind of support you need. Those things, those kinds of prevention activities, in addition to the kind of presence of the police you're talking about, are often the first things to go if budgets are cut, aren't they? This bill talks about prevention, but without some standards to ensure the adequacy of policing is there and then the prevention aspects on top, you're in danger of losing both.

**Mr Mazzilli:** The police have many obligations and first is emergency response. You must have the resources there to respond to emergencies, whether that's a serious car accident, a death of a person, of a child, whatever, and those are your first priorities. You can only initiate problem-solving policing with some extra resources, or taking those resources from elsewhere. While you're

initiating those programs, if you will, you have to take from other places. If there is not an adequacy standard, you will never have the resources to get control of those problems or to maintain them after.

**Mr Peter Kormos (Welland-Thorold):** Thank you, sir, because we've had some real concerns about the issue of adequacy, especially because of the new structure of governance. When you've got a majority of appointees on the police services board being municipal appointees, but the municipal council setting the budget — now the argument is of course that the police services board can appeal to the OCCPS for a review, but if the majority of participants on the police services board are municipal appointees, they're going to be disinclined to do that.

You talk about adequacy. Adequacy doesn't, in my view and tell me if I'm wrong, just go to the protection of the community in the broadest sense, because I agree with you, police presence is in itself a major deterrent. It's a maintenance of law and order. We're talking about a health and safety issue for cops themselves. If you're understaffed and you've got to wade into a scenario without sufficient backup, you or any other police officer is at risk, and also that police officer might be inclined to feel compelled to use, let's say, a level of force or restraint that he or she wouldn't have to use if there were more police present.

We're talking of something that's very broad and all-encompassing. Am I sort of on point or am I close to what we're dealing with there?

**Mr Mazzilli:** I'll start with addressing the municipal council. I have never had a problem with any governance of the police thus far, whether it be three members appointed by the province or three members appointed by local government. As long as the people appointed are responsible people and take the job seriously, are there to oversee the police department and to provide service to the citizens of that community, as long as that stays in perspective and we get responsible people appointed, I don't see a problem.

As far as the adequacy is concerned, I believe there will be municipalities, if it's not addressed in this bill, as far as minimum standards are concerned, that will take the tax issue to heart and it will be their first priority. As soon as you do that, you will compromise the community. Along with policing —

**The Chair:** Excuse me. We have Mr Carr and Mr Klees.

**Mr Gary Carr (Oakville South):** I'll be really quick to save some time for Frank. It's on the same topic. Thank you very much for coming in.

The issue of adequacy, of course, is really key and I'm glad you hit in on that. In fact, my question to the minister on Monday was regarding that. Just so you know, it will be done through the regulations. The process we are going to be doing is speaking with people as we go through, and it's the intention to have the regulations ready by the time it's proclaimed. It's very key and I'm not saying it will be easy, but this will be fundamental and key to it. What the minister has said is true. We want to have defined benchmarks of what it means at the process we'll be taking on shortly and going through that.

Having said that, in the bill, for the first time, we've also listed the core functions that are listed: crime prevention, law enforcement and assistance for victims. I was wondering if you wanted to comment on any of those sections, the core functions. Do you like that in there? Can that be of assistance as we go through this task of defining adequacy through the regulations?

**Mr Mazzilli:** I have checked into the core functions and the one thing that you have to understand about the core functions is that they work together. You cannot have crime prevention without enforcement. You cannot have enforcement without emergency response. So whatever you term it, whether you term it community policing, problem-oriented policing, you need all those working together at one time to have an effective police force that can respond to crime, that can prevent crime, that can initiate problem-solving initiatives.

As far as having them in there is concerned, yes, I believe it is important to have them in there. But they have to work together. You cannot do one without the other.

**Mr Carr:** I agree.

**Mr Frank Klees (York-Mackenzie):** I think I heard you say, in response to a question from Mr Kormos, that you don't have a problem with the composition of the board in terms of the municipal appointments or provincial appointments, that you have full confidence that as long as they're responsible people, they'll act responsibly. Is that correct?

**Mr Mazzilli:** That's correct.

**Mr Klees:** You indicated that the issue of adequacy concerns you about this bill and you gave an example of what apparently is inadequate service here in London under some circumstances. Where do you feel this breaks down? Is it the decision, in your mind then, of the municipal council to fail to fund? Is it the police services board that fails to see the issue of adequacy in the proper light? Given that this bill provides for an appeal to the commission, if adequacy is not being served well, do you have a concern that the commission will let the system down? Where exactly is your concern?

**Mr Mazzilli:** My concern is certainly at the municipal council stage. In London we have had great cooperation from the commission. As soon as the budgets go to municipal council, that's where they're dealing with the hard numbers and the reductions, and generally those numbers come back to the commission. At the municipal council stage, those people are elected and some believe zero tax increase is the way to go. I'm not opposed to that; however, we need to prioritize what's important to all of us and the one thing we still have in London, in Ontario and in Canada over any of the American cities is the safety issue, that we can walk anywhere we like at any time of the day or night and many American communities just do not have that. That's something I think is a high priority to all Canadians and we need to maintain that.

**Mr Klees:** You're aware that under this bill, if the police services board feels the municipal council is not acting in a responsible manner towards the issue of adequacy, that appeal can then be made to the Ontario Civilian Commission on Police Services. Do you have

confidence that this commission would understand the issue of adequacy and could deal effectively with it?

**Mr Mazzilli:** I have read that in the proposed amendments. The only concern I have is the time it would take for that hearing to take place.

**The Chair:** Excuse me, our time has elapsed. Mr Mazzilli, thank you for appearing before us and helping us with our deliberations.

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**Mr Ramsay:** On a point of order, Mr Chair: Since this issue of adequacy comes up at every site and the parliamentary assistant has said that regulations dealing with the adequacy issue will be forthcoming, I'd like to ask the parliamentary assistant when we'd be able to see those regulations.

**Mr Carr:** Just so you know, we're going through the process now of dealing with people, and I just talked to the PAO to make sure they were aware, which they were, that they were going to be a part of it. We're getting the position papers done, outlining, so they can follow some form. The final regulations will be ready by the time it is proclaimed, which, assuming everything goes well, is in June. We're now in the process of going through that. The papers will be coming out shortly, and then we'll be sitting down with all the stakeholders and going through those regulations. That's the time line. It is in the works as we sit here and as we speak.

#### BILL ARMSTRONG

**The Chair:** Our next presentation is by Mr Bill Armstrong, councillor, city of London. Welcome, Mr Armstrong. Please proceed. Just a question: You're not a member of the police services board for London?

**Mr Bill Armstrong:** No, I'm not. I should clarify for the record that I'm here representing myself today, though I am a city councillor here in London. The views I express will mainly be views directed towards looking at the full picture province-wide and not views directed towards specifically London. Just so you're aware of that.

I have to apologize for my presentation that will come forward in a few seconds. I haven't had a great deal of time to prepare a presentation because I'm dealing with another issue, which actually may have some bearing on this issue, and that's the closing of psychiatric hospitals in our community. As you may or may not be aware, we're looking at the closure of both psychiatric hospitals here in London. It's a very important issue to our community, and it's an important issue to policing in that the proposals may mean that many people in our community who need psychiatric care may end up in fact not getting that care in institutions.

Having said that, I have had an opportunity to breeze through the act and to review the Halton Regional Police Association's presentation, as well as the Police Association of Ontario's presentation. I've also received and looked at information from the Canadian Civil Liberties Association, and I've been supplied with other information from other groups which I've had an opportunity to review. I might point out that while I'm not on the police services board, I'm now a third-year councillor, and for the first two years on city council I sat on our CAPS



committee, that is the community and protective services committee. The police services budget comes to our committee each year, and we're the first ones to look at that. So I have had some exposure to the policing issues here in London by way of that process.

First, I have about six points that I'd like to express my opinions on to you. The first point is with regard to the retention of the SIU. I feel this particular unit is an important unit, and I'm happy to see the government is going to continue to have that unit in place to oversee conduct with regard to serious injury or death. That's something I see that's going in the right direction.

Another area that I don't support is the downloading to 576 municipalities that are presently not having to deal with the cost of policing. I feel this is going to affect the assessments and what taxes have to be paid by these communities. I think this is the wrong direction to go, that these communities shouldn't be forced to pay for policing. This in fact is a move towards American-style policing and will inevitably cause large municipal tax increases across the province. As you probably are aware, we are already facing some major changes in the near future to do with municipal taxes, and this will just add to an increasing burden for many municipalities.

In the area of complaints, as you are aware, complaints regarding police officers' conduct will be referred to the police chief, and he'll review these complaints and decide whether or not these complaints can be substantiated. I have a number of concerns about the police chief having the authority to insist that these officers have to take treatment or other suggested disciplines in order to deal with these complaints that have been made against them.

Another area I have concerns with is the municipal police boards. I believe the system and the formula we have in place at the present time have been working; they make a lot of sense. I have some serious concerns about — and this is again looking at it province-wide — having the police services board appointees mainly coming from the municipalities. I think this will add to the possibility for corruption and municipal interference in those boards. So I support leaving things the way they are.

Generally, I don't support the increased powers that are going to be given to the police chiefs to impose counselling treatment etc, unless it is on an on-consent basis with the officer involved. I have serious concerns about that when there isn't any type of hearing that would take place.

Another area I have concerns about is unsatisfactory work performance. This could lead to abuses. Because of the pressures that will be created to see revenues increase, there is always the possibility that we may see ticket quotas enforced or suggested. That's one area that I have some serious concerns about, and I don't think that's something that should be pursued. Those are all the comments I have for now.

**Mrs Boyd:** Thank you for coming, Mr Armstrong, and giving a viewpoint as a councillor, because I think that's important. You were talking about the increased abilities of police chiefs to decide upon a resolution for a complaint, and you mentioned your concern around no appeal and no hearing. That certainly seems to be a real issue of

natural justice, doesn't it, if someone is going to be forced to participate in treatment and they don't have any kind of a hearing or any kind of an appeal.

**Mr Armstrong:** That's it, and I agree with those comments. I also would suggest that of course this will lead to a large increase in arbitration and additional costs in dealing with those issues. I certainly support, though, the use of mediation for minor complaints whenever possible. I think that's an affordable mechanism to deal with that type of complaint.

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**Mrs Boyd:** I notice that the head of one of my colleagues snapped up when you talked about the prospect of the possibility of corruption as a result of the bill as it is, and that certainly has been of concern to a number of groups that have spoken to us, because they look at the Americanization aspect of this. We see cities, for example, New Orleans, where I was not very long ago, where they have a permanent commission now looking at corruption, because in fact there was collusion between their police force and various municipal authorities, both administrative and elected officials, and a very big problem around kickbacks and around that sort of thing. It has been suggested that disciplinary actions taken against police officers who are vigorous in their pursuit of issues like that simply open the door to less independence in terms of policing. Was that the kind of concern you were expressing?

**Mr Armstrong:** Yes, those are the same concerns that I have under the present system, and I'll speak to London. We have three appointments from the province and two from the city. That's a good balance, and I think we need to have that balance in place. To have the balance of power with the municipality as far as who sits on these boards is concerned — not pointing at any specific municipality — especially with smaller municipalities, could lead to some serious problems. Thus far, while there have been some problems province-wide, I see that the system is working fairly well, and I can only see that this change could see us with more problems down the road.

**Mr Ron Johnson (Brantford):** Thank you, Mr Armstrong, for your presentation. I'll be brief so Mr Klees has an opportunity to ask a question as well. You indicated earlier in your presentation that you did not support smaller municipalities paying for policing; in fact, you wanted it to remain as it was. That surprises me, coming from a city councillor who represents taxpayers and constituents who currently do pay for policing. Throughout our hearings so far, we've obviously developed some common themes that we've got from our presenters. The majority of people who have brought this issue up have supported the government's position that local policing should be paid for by local ratepayers. How would you explain to your ratepayers the inequity that would exist if in fact surrounding communities were not forced to pay for policing and you were?

**Mr Armstrong:** I think that in these smaller communities we've had a system in place that seemed to work well. The policing that has been in place has been a good system. I just don't see that this type of change, in the long run, is going to be good for the smaller municipal-



ities. This is going to create hardship for many of them. I think that hardship will result in increased pressures on those small municipalities to look to the police for increased revenues, and that would be my concern.

**Mr Klees:** Mr Armstrong, you made two points I'd like to follow up on, and if you don't have time to respond, perhaps you can be so kind as to get back to us in writing on this. You made two points; one was that you don't trust the chief of police to be counted on to make appropriate disciplinary decisions. Does that come from your personal experience here in London, and if so, could we have some examples of that? Second, your concern is that elected municipal politicians would be more susceptible to corruption than members appointed by the province. Again, is that based on your experience here, and why do you feel that, seeing as you yourself are an elected municipal politician?

**Mr Armstrong:** I'll certainly respond to those two questions in writing, since you've offered that because of the time factor, but I'll just briefly respond to the first question. I don't recall saying that I didn't trust our police chief, if that's what I heard you say earlier.

**Mr Klees:** It was police chiefs in general, I think.

**Mr Armstrong:** Oh, police chiefs in general, okay. Plural. We've had a system in place in the province that I feel has worked reasonably well. It needed to have some tinkering done, some minor changes, but I think some of the changes you're proposing are doing far more than is necessary. When we have police chiefs, for example, being given the authority to basically insist on officers taking different treatments without their consent, that concerns me. In my opinion, that may begin to infringe on officers' rights. That's one area I would have some concerns about.

**Mr Ramsay:** Thank you very much, Mr Armstrong, for making your presentation today. You really bring up an interesting point about the new powers the chief is going to have now in dealing with minor complaints the community may have and bring forward. What's interesting about this is that police officers and police associations that have come before our committee are very concerned about that, as well as community people. They look at it as — the phrase they like to use — a lack of transparency, that either the police officer named or the complainant doesn't really know exactly how the chief is dealing with the complaint and that there needs to be maybe some neutral party that would deal initially with non-serious complaints.

I, for one, certainly wouldn't want to propose some sort of expensive bureaucracy to handle this. There's got to be somebody locally, who would have the confidence of the police officers but also of the community members, who could handle this at the very first stage and do it expeditiously and effectively. I was wondering if you have any suggestions, from your experience, about how we could deal with those initial complaints locally.

**Mr Armstrong:** I could only suggest that there could certainly be a system set up where perhaps there could be a mediator who is dispatched to deal with these complaints on a mediation basis to try to deal with minor complaints that way. That would probably be the most cost-effective scenario for dealing with complaints,

maybe not necessarily having somebody located in each municipality, but perhaps through the greater commission there could be a number of mediators who could step in and deal with issues of complaints where both the complainant and the police officer would feel that there is a neutral party in place who is there to look at the facts, both sides, to discuss the facts with both sides and try to work out a reasonable resolution to the issue.

**Mr Ramsay:** Would a city the size of London have in its police force a community relations officer or somebody like that who deals with community relations and maybe informally handles complaints now?

**Mr Armstrong:** I couldn't really comment on the specific job functions of specific officers. I'm sure that there are, as we have with other departments, public relations people, but whether they have somebody who steps in and deals with complaints, I couldn't comment on that.

**The Chair:** Thank you, Mr Armstrong, for attending here today.

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## LONDON POLICE ASSOCIATION

**The Chair:** Our next presentation will be the London Police Association, Robert Wilson and Thomas Drouillard.

**Mr Tom Drouillard:** I'll just start out by introducing myself. I'm Tom Drouillard. I'm the president of the London Police Association. In that capacity, I represent some 600 members, which includes civilians and the rank and file as well as senior officers. I'm presently serving as a detective constable with the London police, and I'm assigned to the sexual assault section there. Today with me, to my right, is Mr Robert Wilson, the administrator of the London Police Association.

I'd like to first thank the committee for allowing us to address you today and commend the provincial government for their efforts in restructuring the bureaucracy within this province. I hope that the information provided to you by the London Police Association will be of assistance so that Bill 105 will be the best legislation for police and the citizens of this province.

Mr Wilson has circulated, and I believe your assistants have circulated, our brief today. Within that brief, I will be highlighting nine points regarding the bill. Nine of these items have been tabbed individually for you. I'll be briefly making comments on tabs 4 through 11, and then the majority of my time will be spent dealing with tab 3 as it relates to the complaints process. That will be my focus today.

The first is the informal resolutions. Locally, section 59 has been used for swift and cost-effective resolutions to a myriad of complaints to the satisfaction of both the complainants and officers as well. Failure to restore section 59 will result in cases being sent to arbitration. This is a concern for us because it will involve a timely and costly process. Locally, we have not been to arbitration for some 25 years. If this section is deleted, I guarantee that practice will change, as the only resolution for us will be through that arbitration process for a fair appeal. If your goal is a system that is fair and cost-



effective, then I suggest that we should restore section 59 of the current act.

The hearing process: I suggest you should also restore sections 108 and 111 of the current act. These speak to fundamental principles of fairness at a hearing, fundamental principles that should be continued. You can refer to the documentation regarding this at your convenience.

The appeals process: This act must allow for the ability for appeal to the commission, and specifically the commissioner. This is another fundamental principle that must be continued. I should add that the request is merely for the ability to appeal. The commission would review any such request and deem whether or not there are grounds for such an appeal.

Amalgamation of police services: This is a very timely topic. Suffice to say it's within the tabbed items for your perusal later.

Municipal control of police services: There are also several points listed within the tabbed items regarding this. I would just like to add that on page 8 of the Common Sense Revolution, the Conservative Party specifically guaranteed funding for police, and I quote from that document: "The people of Ontario are rightly concerned about community safety in our province, particularly the incidence of violent crime. That is why funding for law enforcement and justice will be guaranteed."

When the province abdicates funding of policing to the municipalities, there is no swift provision for appeals if the municipalities fail to provide adequate and effective policing. This must be corrected.

The special investigations unit: This is a lengthy tabbed item, but I would highlight that this act must be clarified to ensure that an officer is afforded the same rights under the Canadian Charter of Rights and Freedoms as all other citizens of this country.

Adequate and effective police services: This is another lengthy item which is tabbed for your perusal later.

Police officers and non-police personnel: In this tabbed item there are several issues as well, and I would also like to stress that during the summit process, there were many, many issues in this tabbed item that were agreed upon by all the stakeholders. However, these agreed-upon items during the summit process have not been included in Bill 105, and I would urge you to revisit those items which were agreed upon, which are listed in the tabbed items.

Dealing specifically with the complaints process, where I'll spend the rest of my time, the current act is divided into two complaints processes. One is the internal discipline under part V and the second is under part VI, the public complaints process. Locally, part V has been used for decades to deal with these internal matters and has been successful, as it is modelled under the current criminal law process, where a prosecutor and a hearings officer are appointed and the officer may be represented by counsel if he or she chooses.

The current act, under subsection 77(7), provides for a six-month time limit for the laying of a complaint. However, it also stipulates that this provision can be overruled by the commissioner if he or she so chooses and deems necessary. We believe that this is not an

unreasonable section and that it should be included in Bill 105, as it is in the current act.

We also believe the chief should have the ability to make a complaint on internal matters. However, he or she should not have the dual role as prosecutor. The dual role will breed contempt, as the chief will become the complainant and the judge. This will guarantee that no impartial process will ever exist.

Currently, the complainant, officer and the commission are provided with interim and final reports. Under the new bill, no such reports would be required. Interim reports have been found to be of assistance in ensuring that the investigation has been fair and timely. They have also been used to quash hearings when reports have shown that the complaint was not investigated promptly and thoroughly, as prescribed under the current act. These reports also ensure that the officer has been treated fairly, as he or she can verify that they have received complete and full disclosure regarding the complaint.

Final reports assist both the officer and complainant in determining that there are accurate and factual conclusions. They also allow both parties to correct any such facts which may be in error prior to the chief taking any further action. Some of these safeguards mirror the criminal law process, but under the new bill they have been removed. They must be replaced so as to ensure the fundamental principle of fair justice has been adhered to.

There also is a need to restore bad-faith complaints. Under the current act, the chief can determine if the complaint was made in bad faith, and if so, the complaint would not be furthered. This is an important safeguard for officers who are being used as pawns by those who are facing criminal charges. Criminals then become complainants and use their complaint as leverage for their own criminal defence. On a personal note, I have been the subject of such complaints, complaints that have been made by persons whom I have arrested and charged. These complaints were found to be frivolous and vexatious and the complainants were eventually convicted of their own crimes in a criminal court. I submit to you that this is the norm, not the exception. This is why the bad-faith provision of subsection 85(1) of the current act must be reinstated.

The new bill also requires that a crown attorney be consulted for provincial offences. Police officers routinely find themselves involved in minor traffic accidents. They would now be referred to the crown's office, which would involve a costly and timely process. Locally, the crown's office is not consulted regarding provincial offences, nor would they welcome the increased workload. The crown's office is already overburdened with criminal offences. Furthermore, we locally have the officer in charge of our specialized traffic enforcement section review all departmental motor vehicle collisions. This has worked well for the department, as our officers are subjected to a higher standard of care than a citizen would be. If this government is truly interested in streamlining bureaucracy and saving money in the process, then this process, I suggest, should be removed.

The new bill introduces a subsection that will provide officers with the right to a private life. We welcome this



section, which has long been overdue. This has been an issue of concern to officers for decades. I trust this section will remain so as to afford officers the protection that they deserve, allowing them to enjoy a private life outside of policing. Currently officers are charged under the code of offences for off-duty conduct which is not related to their employment. This section recognizes that officers are also citizens who live in every community, as well as in the ones they serve.

It is requested that subsection 73(2) remain and that it be amended as follows: "A police officer shall not be found guilty of misconduct unless there is a demonstrable connection between the conduct of either the occupational requirements for a police officer or the reputation of the force itself."

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The current act, as I mentioned earlier, mirrors the criminal law process and provides many of the same fundamental principles of that law. The bill incorporates a new phrase called "unsatisfactory work performance." This is a term that is frequently mentioned in the labour code, which does not presently govern police. This is a catch-all phrase that will render the code of offences found within the current act obsolete. It will allow a chief to rely on this provision when there is no specific code of offence. This will give the chief the best of both worlds and will allow him or her the threat of discipline or dismissal for anything at all, and even worse, for nothing at all.

This will then result in a chief prescribing arbitrary and unreasonable standards that will be subject to discipline. This then puts a great potential for quota systems to be developed, thus taking away any discretionary powers that officers presently enjoy. This will be magnified further when revenue from offences is turned over to the municipalities.

It will also allow for police services boards to discipline if quotas set by them are not met. The consequences for such a catch-all phrase would be ultimately borne by the public. They would be subject to officers giving out offence notices without discretion and solely for the purpose of meeting a quota. Meeting such a quota would then guarantee an officer a satisfactory performance review and ensure him or her no threat of discipline from the chief or the board. The public would bear the brunt of such corrupt legislation.

I urge you to completely delete section 75 from Bill 105. Police are already overregulated under the present code of offences and keeping this section would only serve to alienate police and public relations.

In closing, I would like to again thank the committee for the opportunity to bring our concerns forward. We locally have had an outstanding relationship with the public we serve. Our concern is that the proposed amendments to the Police Services Act, as they relate to the complaints process, will do nothing more than destroy the effective and cost-efficient process that now exists.

The author of the amendments must have had a strong desire for the police to become unionists. I say this because Bill 105 will change the police complaints process into a system that will mirror the Ontario labour act, an act that governs unions. Bill 105 gives arbitrary

authority to the chief of police without an internal appeals process. This will force officers, and more correctly, associations, as well as the complainants into a protracted and costly arbitration. If this government's intention is to reduce the bureaucracy and the cost of the complaints process, then these amendments do not achieve this end.

The amendments will also take away officers' basic rights and remove all principles of natural justice that are ingrained in the Criminal Code as well as the current Police Services Act. I have been told that no system is perfect; however, the current act provides legal safeguards for officers that Bill 105 does not, and quite frankly the present system works well.

It is our desire to work with government to design a fair and efficient public complaints process. This process, however, must be fair to both the public and the police. Without such a balance there will be no confidence in the process. Sir Robert Peel said, "The police are the public and the public are the police." This is the principle on which the complaints process should be administered, a process that offers as many safeguards for officers as it does for the complainants.

Thank you. Mr Wilson and I will entertain any questions that you may have.

**Mr Carr:** I want to thank you for a good presentation; it was very thorough. I'm interested in a little bit more follow-up on the informal resolutions. I think, as you know, everybody wants to have a situation where it can be done informally and have some of them that can be ironed out at that juncture, taken forward. I think everybody agrees with that. Specifically, what is the problem with the informal process now, under this bill, where your problems are? Does it relate to some of the information being used against you? Could you expand on that a little bit, please?

**Mr Drouillard:** I'll have Mr Wilson respond.

**Mr Robert Wilson:** Basically, under the proposals, the authority of the chief extends to 40 hours' penalty by way of pay. Subsection 59(1) presently under the Police Services Act allows for the association and the administration to agree on an informal process, which has been done in London and most centres and it works very well. It's in the interests of both the administration and the association that the process works.

Where you've changed this, you've given absolute, arbitrary authority to the chief of police to fine a person up to \$1,000, and then you give the officer no right to appeal that process under the Police Services Act. I suggest to you that the only recourse we would have, if the member felt he had not been treated fairly by this arbitrary decision by the chief, would be to use our management's rights clause and to file a grievance. A grievance then takes you into the rights arbitration. This is protracted, this is costly. My experience of arbitrations — and we haven't used one in London — is that a good arbitrator will make sure that both parties walk from the table unhappy. You've pleased neither one nor the other; you've cut the baby in half. It's the King Solomon process. What does that do for morale? It's a massive cost to associations. We have to do this out of union dues, and I don't think it enhances work performance or morale.



**Mr Ramsay:** Mr Wilson, I want to follow up on that, just something you've mentioned, because that's exactly what I wanted to ask. Besides being protracted and costly, what do you think the deletion of this section will do to morale in the London police force?

**Mr Wilson:** I think it would be absolutely devastating. Right now, 90% of all administrative discipline — and please remember this is administrative discipline. To compare us to unions is ridiculous. General Motors or Ford doesn't care about the cleanliness and tidiness of a person working on the assembly line. We're charged an administrative discipline with such things. We're charged for off-duty conduct. The level of discipline as subjected to the police officer, the quasi-military style, far exceeds that of unions, and if an officer feels he can't get a fair shake, the morale situation is going to be devastating. They're going to avoid certain activities because, if they know a complaint is going to emanate and that the chief can arbitrarily take \$1,000 out of his pay packet, that's going to drastically impact on the quality of service he's giving out there. He's not going to put himself in any risk.

Right now, I can tell you that over 90% of administrative discipline is looked after through the informal process at a minimum of cost. We have a limited number of administrators on our force, senior officers. You go to a hearing, they've got to have hearings officers, they've got to have prosecutors. The informal process right now works extremely well. The officer has the right not to accept it; 90% do. Very little goes to a full-blown hearing. Minimum of cost, and it guarantees the highest level of morale.

**Mrs Boyd:** I'd like to ask Officer Drouillard a question about the part on having a private life. I'm afraid it may be misunderstood, so I just want to clarify with you. You work with the sexual assault team, for example. Would you regard the amendment that you've proposed — if a member of your sexual assault team, applying the law on sexual assault, were charged with sexual assault himself or herself, would you see that as an appropriate area for a misconduct hearing?

**Mr Drouillard:** I'm just trying to clarify your question. If one of our officers is being investigated for sexual assault?

**Mrs Boyd:** If one of your officers themselves were investigated and indeed charged —

**Mr Drouillard:** Off duty?

**Mrs Boyd:** — off duty, with either a familial or non-familial sexual assault, should that be the subject of discipline, as well as the criminal process?

**Mr Drouillard:** I would say yes. What I am referring to in my paper are those times where it has happened, not to me personally in this regard, but where you tell your neighbour something that they're not very fond of and as a result of even your language to your neighbour you are subject to discipline under the Police Services Act. If there are serious allegations of criminal offence taking place, then, rightly so, there should be investigations and/or administered discipline within that department. That's correct.

**Mrs Boyd:** I was fearful that your section might be interpreted differently, so I'm glad that you were able to clarify that.

**The Chair:** Gentlemen, this is without a doubt the most thorough and concise presentation we've received and I think all members of the committee appreciate your comments.

**Mr Drouillard:** Thank you for those comments, sir, and thank you for your time.

1140

JERRY BUCHANAN

**The Chair:** Our next presentation is by Jerry Buchanan. There's been a slight change in the agenda. We will be hearing from the person who was scheduled at 1140 later on this afternoon. Welcome, Mr Buchanan.

**Mr Jerry Buchanan:** Thank you, Mr Chairman. Mr Ginn is unable to be here this morning, he's in court, but I exchanged time with him and I think it might lead me into what it is I want to talk about.

Perhaps first I should identify myself a little bit better. I'm Jerry Buchanan. I was crown attorney here in London and I recently retired, just last year. I was crown attorney for 10 years, regional crown attorney for four years, crown attorney in Elgin county for nine years, and an assistant crown attorney in London for nine years before all that began. Pretty well my whole adult career has been involved with justice and dealing with police officers and the justice system. I come away from that with, still, a great concern about the system.

I only speak to one issue, that issue being the small municipalities that are going to embark upon their own policing, police forces, or their own method of policing. They're going to have to pay for it, which they haven't done in the past. My suggestion to you is that I'd support this legislation in relation to that. I think this is an opportunity for small departments and for the Ontario Provincial Police to learn new ways of policing and producing a product cheaper.

I don't suggest at all that there be any lessening of the duties of police officers. All those standards that have been set ought to be maintained, but there are areas where cost savings — because there are going to be costs to those municipalities that are presently paying nothing, but those costs can be tempered if one uses some of the new techniques and technologies that are available for policing to save money.

In particular, everybody's aware that police costs are substantially police officers' salaries. What citizens want is police officers to go and investigate crimes, to protect them and to present their evidence in court. Where the major costs to large municipalities and to small municipalities occur is in the necessity of officers attending court, the necessity of officers preparing briefs, preparing reports. I think there are other ways of doing it.

My experience in and around London is that this community has a very active, proactive police force so far as electronic technology is concerned. They are making large strides. They have some computers in their police vehicles. The officers will have the ability to directly place information into their computers so that statements and all that sort of thing can be done at the time. That creates a database that then is available for crowns at a later stage. It creates a database which is

available to courts administration by way of the information. All the documents that are necessary to start the process can all be created automatically.

These things can all be integrated into the new small forces and I think the small forces are quite enthused about the opportunity it gives for small communities. I note from your list that you're going to hear from the reeve of Dutton this afternoon and I'm sure he'll talk to you about Dutton, Glencoe, Rodney and those small communities that are clustered together. This is an opportunity for them to try new ways of policing.

Unfortunately, recently some small communities — Strathroy in our community is an example of a community that has paid for a police force for a number of years; Aylmer in Elgin did as well. Those police forces are quite progressive, but they're very costly and those citizens ought to know that the people down the road in Mount Brydges and Glencoe are going to pay for policing that they didn't do before.

It gives them the opportunity to pod perhaps, if I could use that term, with other small municipalities to provide police services and in particular to provide the administrative services the act talks about.

I look upon that portion of the proposed bill as being an opportunity for police departments and for policing in general across the province to perhaps take a page from some of the American cities that do substantially more technology than we do. I think it is an opportunity. I heard Mr Armstrong speak this morning. He spoke of problems; I tend not to speak of problems. I think this legislation provides an opportunity for policing to create solutions and that's what I'd like to see. I think both the creation of the small municipal boards and the creation of joint forces, I think is the term that's referred to in the bill, are good moves, so I want to support that.

If you have any questions, I said I'd be brief and I think I have been.

**Mr Ramsay:** Mr Buchanan, I want to thank you for your presentation today, and just to tell you we will certainly be considering what you've said to us as we look to our amendments to this bill.

**Mrs Boyd:** Thank you very much, Jerry, for coming. It really is important to mention some of the points you brought out. One is this issue of technology and how we can use technology more effectively.

You're quite right: We have reason in this community to be very proud of the strides that have been made, not only with the police department, because we do have a very modern dispatch system that involves this use of computer in the car, but also the fact of the partnership that was developed between the crown's office and the police department so that this material was produced in a much quicker way. It not only streamlines that process; it makes disclosure easier and it's available easier. It really works in both parts: the enforcement part and the prosecution part of the system.

I have a sense that we've always worked quite closely together in this community, through that whole process, that technical process of prosecution and enforcement, into a better partnership. Would you care to comment on that? Do you think that's fair?

**Mr Buchanan:** I think it is important. I've looked upon it as a partnership with the police in all my years and they were most cooperative with my old office. We were able to make substantial strides in relation to the needs of the justice system. When the Supreme Court of Canada came out with decisions that sometimes created problems, rather than talk about the problems we looked to solutions. I think that's what I learned and that's what we were able to do here. I would hope some of the other communities in the area would be able to follow up on that.

I know there was an integrated justice committee that talked about cooperation between the police departments and the crown's office and the courts administration and the defence bar. We were able to successfully do that here in London. I'm not so sure what the status of that committee is at present. I'm out of the loop now. I don't know whether that committee continues to exist, but I would hope it would because that is a substantial cost-saving area, especially to jurisdictions where you're going to create a cost they never had before.

What we want to do is make it as efficient as we can for them. They're going to bear the cost, but let's do it better than we have done it in the past. The OPP costings are pretty substantial.

**Mrs Boyd:** Yes, although small departments often find it impossible to deal with big investigations, so that's the other side that needs to be looked at.

**Mr Buchanan:** Exactly.

**Mrs Boyd:** Could you comment, given your experience as a crown attorney, on the point that was made by the police association around crown attorneys being consulted for every provincial offence a police officer might have. That seems to me an enormous red-tape issue. Does it to you?

**Mr Buchanan:** Yes, it is. I appreciate the comments of Constable Drouillard but, yes, the reality is the crown attorney's office is busy enough to be able to deal with the serious offences that involve officers and that's about it. We do not have time to deal with highway traffic matters and that sort of thing. I've watched the hearings for the past couple of days on TV and I thought I was watching something from another planet when they talked about Toronto.

**Mrs Boyd:** It is another planet.

**Mr Buchanan:** I just can't believe what goes on there, really quite amazing. That has not been my experience here. We just don't have those problems; we never had those problems. The hearings they talked about as being informal, they were so informal that I never heard about a lot of them. They were just dealt with. We just looked for solutions and dealt with them. If I had a problem with an officer, I knew I could talk to that officer and if necessary I could talk to his superior. I don't know what goes on in Toronto. It's something quite foreign to me. Maybe I've lived that privileged life by not being there.

1150

**Mr David Tilson (Dufferin-Peel):** Thank you, sir, for coming with your expertise and giving us your comments on policing. I think policing, like so many other aspects of our society, cries out for change simply in the way of



doing things. Small communities can no longer afford specialized services such as homicides and I hope it will be that these small communities will be simply forced to do things differently. I give the example of homicides. I don't see really how, quite frankly, a homicide could be properly investigated with the expertise that a small community can afford. I pick homicide not knowing much about these things, whether it's computer crimes or whatever.

Every once in a while the topic of police being required to attend court for hearings — there was a story in Toronto recently where time and a half is paid, and enormous amounts of money are paid for police to go and sit in a courtroom waiting for an adjournment that may happen at the end of the day, and time and a half is paid. They list off these enormous amounts of money that are paid. We can't sustain that any more. This bill I hope will encourage people to offer suggestions to improve the whole concept of policing, of law and order, as it were. I don't know whether you have any comments. I'm sure there are other areas where you could suggest savings.

**Mr Buchanan:** There are. I've a list of them. It is important to recognize that police officers are necessary for court. We're never going to do away with that. What I'm suggesting is that we should do scheduling better than we do. If you look at jurisdictions that obviously I've been very familiar with, London and St Thomas — I also have had some tours down to Windsor and I understand you're going to speak to some Windsor people today too. Their scheduling system for officers for court is archaic in comparison.

I believe Statistics Canada said the London PF is the second-most economical cost police force in Canada. That didn't just come about because everybody's nice; it came about because everybody worked at solutions, trying to schedule officers, and we were able to do that. All of our POA matters, the Provincial Offences Act matters, for London PF officers are scheduled according to the officers' times. I know there are a lot of JPs who don't like that but it becomes very cost-efficient. The police who are sitting in the courtroom are the most expensive commodity in that courtroom. The justice of the peace is getting paid anyway, the clerk's getting paid, the prosecutor's getting paid, the defence lawyer's getting paid. It's those myriad of police officers who are sitting out there who are the big cost.

**Mr Tilson:** Particularly when you know they're not going to get reached that day.

**Mr Buchanan:** If you have better communication between everybody, that'll happen less.

**Mr Tilson:** I don't know what the issue is with respect to people who are incarcerated waiting for trial. There may be charter problems — someone such as you may have some comments on that — but there is even the issue of transporting people back and forth when you know perfectly well there's not going to be a trial, and whether there are ways that don't affect their charter protections.

**Mr Buchanan:** I can tell you a few things about that. That is a significant cost to a municipal police department, running prisoners back and forth to jail. We have

had here in London a pilot project for about two or three years for video remands, so you don't have to run the prisoner back and forth to jail. The difficulty is it's the prisoner, be it a young offender or an adult, who has the say as to whether or not they're going to come. So they're all saying: "No, I want out of here. I want the tour. I can go down to the courthouse and I can see my girlfriend or whatever. I don't want to stay here and go on video and have my remand there." Absolutely nothing occurs. It's nothing less than a remand. It may be to set a preliminary hearing date or anything else, but that's just a foolish cost that we're absorbing.

**Mr Tilson:** Sir, I hope you continue to come to municipalities or the Solicitor General to offer your thoughts on economizing and doing things better, because it's people like you who have gone through it who may have some ideas where you can economize and still provide a pretty good service. Thank you very much.

**Mr Klees:** I would just like to follow up on Mr Tilson's comment. Mr Buchanan mentioned that he has a list of things he could think of where economies could be realized. It would certainly be helpful to this committee and to the government if Mr Buchanan would be willing to undertake to provide us, perhaps in writing, with some of his thoughts and recommendations regarding cost savings. If those could be forwarded to the clerk and distributed, we'd appreciate that.

**Mr Buchanan:** Sure, I'd be happy to undertake that, Mr Klees. I might point out, though, that as a retiree I'm going golfing next week, so I won't do it next week.

**The Chair:** Thank you very much for taking your time to lend your experience to the benefit of this committee, Mr Buchanan.

Before we adjourn, just for the purpose of the record, I'd like to say that as a result of a subcommittee meeting yesterday, which is not before you and cannot be confirmed until a subsequent date, I have instructed the clerk to schedule the first four days of the Bill 84 hearings by using lists provided in rotation from each of the caucuses, whether or not we may have received formal notice, either orally or in writing, from the individuals involved. The reason for that is simply because of the time element and the cutoff dates and scheduling the first four days. If there's no objection to that, you will be getting the formal resolution of the subcommittee which I believe reflects that, but I just wanted to advise you in advance.

**Mr Kormos:** I spoke with you earlier this morning, along with the clerk, about that. Simply to make the observation that there was a deadline published and we will therefore, in my view, have to maintain some flexibility to ensure people aren't arbitrarily deleted from any lists because of the published deadline and because of the accumulation of numbers of presenters of views. All I'm saying is I hope we will remain flexible in terms of the time frames, not the days but the times within which we sit to make sure we accommodate all those persons, in view of the very late deadline, which creates problems for the clerk, I acknowledge.

**The Chair:** I think that's the intent.

We are adjourning now until 1 pm.

*The committee recessed from 1159 to 1302.*

## LONDON URBAN ALLIANCE

**The Chair:** Our first presentation this afternoon is by the London Urban Alliance on race relations, Lorna Martin.

**Ms Lorna Martin:** I'd like to introduce the president of London Urban Alliance, Mrs Jean Ottley, who will be a presenter or a question-and-answer today, and Mr Jim MacIntosh, a volunteer for London Urban Alliance.

We approve of and applaud the government of Ontario's changes proposed in Bill 105. These changes are long overdue. There are those who would bankrupt this province if they could. It has taken fortitude and courage to call a halt to the spending that has taken place year after year in Ontario.

We in the community have watched while bureaucracy was piled upon bureaucracy until the public no longer knew who to deal with. In policing in particular, we at the grass roots in the community have been thoroughly confused about which board or commission we should be dealing with at any one time. We have been inundated with notices and regulations from a half-dozen different agencies all dealing with the same matters.

Throwing money at something does not necessarily make it go away. The chaos and the haemorrhaging of money must stop. Our message is simple: Keep it simple and spend less.

We do have some concerns with Bill 105 that we wish to address at this time.

Political control at the local level is a serious concern, especially when police board members are not mandated to measure up to set standards, undergo any training or to be held accountable for inept or unprofessional conduct.

There must be appropriate safeguards to insulate the police from local political meddling, pressure tactics or influence. For example, if the board is to be controlled by unethical local politicians, who are also the people who hire and fire police chiefs, such a board can merely appoint a chief who will do the board's bidding as a condition of getting the job.

We believe the police services board structure of three provincial and two municipal appointees should be maintained. While appointed from Queen's Park, the provincial appointees are still local citizens. This system has worked well in the past.

The mandated authority of the Ontario Civilian Commission on Police Services must be in place to oversee, make inquiries of and discipline boards who exercise undue influence, power and control over police organizations. In this regard, OCCPS must have the authority to ensure that police organizations are adequately financed, staffed and resourced; otherwise, it can reasonably be anticipated that some local politicians, with alliances to members of the board who will do their bidding, will surely try to bleed police services. This scenario is more likely with a majority of municipal appointees. Such actions will effectively and without accountability compromise both public and officer safety.

Politicizing the police without appropriate safeguards will surely lead to influence-peddling, unethical outcomes, corruption and conflicts of interest. Moreover, the relationship between the policymakers — boards — and

the operational entities — chiefs — can easily become a master-servant relationship, entrenched in the philosophy of the boards having overwhelming power and control. We are not too far removed historically from the examples of Mayor Daley in Chicago and Camillien Houde in Montreal.

There must be in place well-defined, mandated standards of adequacy for training, funding and support of police services, for which boards and/or municipalities are held accountable. We cannot have accountability without the appropriate adequacy standards; otherwise, individual communities will configure their own version of what constitutes appropriate levels of police service, public safety etc. Adequacy standards must be entrenched regardless of the structure of the boards; otherwise, policing in Ontario will be seriously compromised to the point of disaster.

## 1310

The special investigations unit continues to haunt the public and police alike. The initial hiring of untrained personnel to the SIU, with little or no training in investigative procedures, has left the public and the police with no trust in the agenda of this unit. Bill 105 does nothing to alleviate public suspicion or lack of faith in the unit. The SIU has been patched and quick-fixed by successive governments, but its reputation has been so damaged that Band-Aids will not gain the trust of the public or the police. Bill 105 maintains the status quo. An intolerable situation has gone on far too long, without proper focus on the critical need to have in place an efficient police accountability process, one that has the capacity to carry out its mandate and functions in a timely manner. Bill 105 does not deal with this serious issue of public concern. The status quo simply will not do.

The Ontario Police College must be funded adequately in order to sustain the support required by the policing profession. Police training requirements must be considered part of the adequacy standards of policing which speak to crime prevention, law enforcement, criminal investigation and victim services. Without the appropriate recruit, in-service and specialized training curricula, how can there be the lofty expectations of accountability, performance and conduct by police officers? This issue is critical to the whole concept of providing the people of Ontario with the best-quality police services that current and future situations require.

Funding to the OPC has been cut to the point of compromises being made to the current training requirements. If this trend is not reversed, both public and officer safety will be at increased risk. Indeed, OPC cannot at the present funding level fulfil the promises of the Common Sense Revolution, the requirements of the adequacy standards or the recommendations of the Campbell report.

The government of Ontario must support the police with appropriate legislation that will mandate the use of enhanced traffic enforcement technology. Photo-radar and red-light camera systems will save lives. These are proven and cost-effective resources for public safety. This issue, which has absolutely nothing to do with politics, must be addressed and approached solely as an issue of public safety.



As I speak here today, a member of the London Urban Alliance, along with Superintendent Collins of the London police, are in Saint John, New Brunswick, meeting with city officials, police and community groups to outline some of the initiatives and partnerships between community and police that make London a model in North America. Some call it community policing.

This past summer a police officer was sent from Edmonton to gather information on the summer programs for youth presently in place in London. In addition, the Edmonton force was interested in the partnerships between the police, community groups such as the alliance, the London and Middlesex Housing Authority and tenant groups which have made our programs so successful.

This success did not happen overnight. The community and the police have worked diligently for many years in a concentrated effort to promote public safety in our neighbourhoods, to proactively fight crime on our streets and to head off violence in our schools. These joint ventures between the housing authority, London police, community groups and tenant groups, backed financially by the private business sector, are to the best of our knowledge second to none in North America.

As part of this proactive approach, the London police formed a community-oriented response unit. To facilitate access to the unit as well as interaction with the community, the police divided the city into six zones or sectors and assigned one officer as contact person for each zone. In each of the zones, community volunteers act as eyes and ears for the COR unit. When there is any indication of trouble starting, be it drugs, prostitution, or family or street confrontations, members of the unit attend in an effort to head off the problem. Over the years, many potentially violent situations have been averted or defused by the prompt arrival of the COR unit.

**The Chair:** Ms Martin, there are only about three minutes left. I'm afraid you're not going to be able to get everything on record. I just want to make sure you ensure that you get on public record what is important, if you can do that.

**Ms Martin:** I can do that. I've said all this about the ongoing programs that have been instituted in London to come to my final point. Crime and calls for service have been cut dramatically in many areas. My final point is that in Bill 105 community policing is missing. We agree that community policing should not be a part of Bill 105. Each community is uniquely different. The first ingredient in the partnership is community. The onus is on the community, not the police. Thank you for listening and for hearing today.

**The Chair:** Thank you very much for sharing your concerns with the committee. We will certainly give them attention in our deliberations.

1320

#### ST THOMAS POLICE SERVICES BOARD

**The Chair:** Our next presentation will be made by Mr Gordon Campbell, the chair of the St Thomas Police Services Board. Welcome.

**Mr Gordon Campbell:** I am Gordon Campbell. I am the chair of the St Thomas Police Services Board and an

alderman in the city of St Thomas. I would like to thank the hearings panel for allowing me to present a brief today. I understand that all the pertinent factors which will affect Bill 105 are not in place as yet, and that presents some difficulty in trying to address the effects of this legislation on both police services boards and municipalities. It would seem that police services boards will have to use blind faith in adopting this legislation, which will have a significant effect on policing services in our communities.

It would appear that police services boards are being relegated to subservient status to the municipal council, and this leaves anyone open to question whether the adequacy of the service will be determined by the services board or by council. Certainly budget control would seem to direct the onus of adequacy and effectiveness away from the services board and towards the municipal government.

I feel somewhat at odds with myself, as a municipal councillor and a police services board representative, in taking issue with this matter. As a police services board representative, I am proud of the contribution our service makes to our community. In times of budget-cutting mania, we have been able to maintain an effective service while maintaining a zero increase in the overall budget for the past four years. However, zero budgeting always leads to a decline in the state of the equipment and tools that we use. I am convinced that in these deficit-cutting times we are building a huge deficit by simply delaying the replacement of much-needed equipment and services.

The governments, both federal and provincial, have not helped to solve these problems in any meaningful way. In fact, they have added to our distress by passing through costs that have seriously impacted our budgets. The promotion of the OMPPAC system was a beneficial move for all police services, but after assistance with the original setup costs, police services are left with more and more of the expense for operation and replacement of the system.

The edict from on high that the standard .38 calibre service revolver was unsafe led to a huge one-time cost, and of course the decision to buy the new weapons was in the midst of a budget year, when it was difficult to find the moneys to implement the program.

The pass-through of courtroom security was another hit that took away from the effectiveness of the service and put more financial pressure on the service. It simply took three and sometimes four officers in our city away from active police duties to stand by at court proceedings.

These are a few examples of actions by senior governments that have led to diminishing the effectiveness of the service and have caused increasing demands at budget time.

As a municipal representative and former finance chairman, I found it difficult to explain to my colleagues the necessity for maintaining the police budget at the same level year after year when other departments were trimming their budgets by significant amounts. A new finance chairman this year asked that budgets, including the police services budget, be trimmed by 10%, or \$440,000. Had this happened, we would have lost the personnel who do the front-line community service work

plus at least one officer from the criminal investigation bureau, a move which would severely limit our ability to function as a police service.

I think there is a built-in aversion on the part of municipal councillors — I know there is for this one — to paying the full cost of policing while not having control over the budget after it is passed. It was anticipated that the police budget in St Thomas for 1997 would lead us to a decision by OCCPS. Fortunately, it did not and the budget was approved, with several important updates being delayed again. The police services board must retain the autonomy to not only make the necessary budget decisions but to determine the level of adequacy and effectiveness of the service to the municipality. In a dispute, it must have an arbitrator with sufficient autonomy to make a decision and make it stick.

I'm not sure, by what is known of the legislation, exactly what role OCCPS will play. One can only hope that OCCPS will have a role in budgeting and in the strength of the service. This is not clear at present, and in fact several signs point towards a reduction in the viability of OCCPS's ability to police the police.

The change in the structure of police services boards whereby three members are to be appointed by the community and two by the province indicates that the municipality will make the determination as to police budgets. It seems contrary to human nature that three persons appointed by the municipality would vote for a budget review knowing that it was biting the hand of those who appointed them.

This clearly will lead to disputes as service boards endeavour to maintain effectiveness while municipal councils must wage war to reduce expenditures. The very fact that councils have budget control shifts control and power to councils and reduces the role played by services boards. Without an arbitrator such as OCCPS, this would have to lead to a diminished service. In our budget, less than 10% is for services other than wages and salaries.

This legislation circumvents police services boards in other ways. The Ontario Provincial Police may now make a presentation to municipal councils without so much as advising the services board that it is doing so. It would seem only proper that the municipal services board should be able to assess this presentation and be able to make rebuttals or remarks on such an important matter as who will provide policing services. It should be remembered that once the local service is gone, it can never be replaced. I'm not sure that even as a municipal councillor I could make the decision to disband the local board in favour of the OPP without input from the affected ratepayers.

The amendments to the act also suggest that specialized services formerly provided free of charge by the OPP may now carry a pricetag. The use of canine units, tactical units and special investigations will have to be paid for by the local service. This presents a very difficult task at budget time, when an educated guess is necessary as to whether or not to use the special service if it is needed. It also represents a significant downloading when and if the services are used. Will services boards have any input into the development of these fees or the effect this downloading will have on budgets?

I am asking this panel to give serious consideration to the negative effects Bill 105 may bring to municipalities. St Thomas has been well served by our 50 sworn officers and 10 civilian staff who constitute our service. We are proud of the accomplishments and proud of the efforts put forth by the service. It would be irresponsible to allow a power shift to other hands that would certainly diminish the service at a time when demands are increasing at an alarming rate. It would be more irresponsible to allow OCCPS to be downgraded to a meagre existence as a consultative-type board with no power to intercede when necessary.

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These are extremely difficult times for many people and a tremendously busy time for police services. I have appended to this brief the quarterly crime statistics for the St Thomas Police Service from the annual report for 1996. I believe it says best how we can and are doing more with less.

I implore this hearing panel to take the matters addressed in this brief into careful consideration. We cannot return to yesteryear, when policing services throughout Ontario were left in the hands of local boards at the whim and discretion of municipal government. To maintain universality across the province, we need an independent body such as OCCPS to mediate disputes and to preserve the adequacy and the effectiveness of police services.

**Mr Kormos:** Thank you, Mr Campbell. You've got to understand that there have been views contrary to yours expressed. There have been some municipal folks here, and yesterday the mayor of Renfrew was in front of the committee up near Ottawa saying that he thought the municipality should have this very high level of control.

Along with this legislation there's some companion legislation that talks about the municipalities' ability to take on the responsibility of prosecuting some additional provincial offences, matters above and beyond parking offences, and they'd get to keep the take by way of fines.

Some of the police that have appeared in front of us and the Police Association of Ontario are knocking their foreheads, saying, "Holy zonkers, with municipal control over budgets and with the municipality picking up the take on provincial offences prosecutions that are downloaded on to the municipality and with some of the new misconduct standards, we could be turned into a quota-system kind of police force, where we're out there doing the high-revenue stuff instead of the kind of policing that we'd very much like to be doing." I don't know whether that's crossed your mind as well or not.

**Mr Campbell:** In the brief I state that I have a difficult job here because I represent not only a municipal council but a services board. The only way I can address the issue is from the point of view of the ordinary ratepayer. I want to see a strong, viable police service. I don't want to see the ambulance-chasing type of thing that you talk of, where we're out to issue tickets to raise revenues. I don't think police services across the province should be put into a position where they have to do their own fund-raising. I think that leads to some rather horrendous problems.



I understand — and I haven't always been on a police services board; it seems like I've always been on council, but I haven't always been on a police services board — and I too shared some of the views of your friend from Renfrew. It's the biggest budget in the city of St Thomas. It always seemed to me rather queer that we would give away that amount of money without any control or hands on afterwards. After going to the police services board, I can see why that was done, and I can see why the original Police Act back in 1939 or 1940 was passed to bring order to police services across the province. I'm afraid, as a ratepayer, that we're going to lose the effectiveness of our whole force. That would be, in my mind, very detrimental at this time.

**Mr Kormos:** Thank you, sir. Very interesting comments.

**Mr Carr:** Thank you very much for your presentation. I have just two quick points. On page 5 when you talk about some of the downloading for the canine units and tactical units, investigations and so on, just so you know, because you may not, that is at the discretion of the Solicitor General. So there is that provision there.

The one question I really wanted to ask is one that I think is very valid regarding the powers of OCCPS and their ability. One of the concerns many people have voiced is that if you are going to give control to the municipalities, you have to give some, for want of a better word, teeth to OCCPS, and how long those teeth are is going to be a significant factor. Do you have any specific comments on what OCCPS's power should be?

Just to give you an example, the PAO said that OCCPS should have the ability to force the municipality to pay if they decide there need to be some services added. Is there any specific powers that you think OCCPS could have that would help us in our deliberations?

**Mr Campbell:** Yes, I do. I think the powers of OCCPS should be measurably the same as they are at the present time. I mention in my statement that this year's finance chairman tried to trim the police budget by 10%, \$440,000. That figure represents more than the goods and services portion of the St Thomas police budget. We wouldn't have gasoline, paper clips, telephones or anything else if we wanted to take that amount out of our budget.

If it comes again, if next year when this legislation is in place, the same budget chairman were to come to us with some authority and say, "Okay, take \$350,000 or \$400,000 out of your budget," it would be nice, it would be necessary as a matter of fact, for us to go to some arbitrator — and you're suggesting we'll have to pay for it; that really seems to be the method we use today — who would have the authority to say "No, you can't do that," because the only way we could do that is to cut the force so dramatically — the whole front line of our community services detail, the community services officers, the Crime Stoppers officer, and at least one and probably two from the criminal investigation bureau out of a three-person department. Our service would be gutted. We would then just have enough to go out and pass out tickets. I think we need OCCPS to maintain a measure of effectiveness and a measure of fairness.

I can speak well on behalf of municipalities, but I think with the misunderstandings that they have of what we're trying to do as a police service, we could get into some very grey areas there. We need someone who, as I say, can make a decision and make it stick.

**Mr Carr:** Thank you very much. That's very helpful.

**Mr Bruce Crozier (Essex South):** Good afternoon, Mr Campbell, and welcome. I noted when you came up you congratulated the previous presenter on a good presentation, and it relates to one point they made that relates to your position as a member of municipal council on the police services board and this question of who should be the majority on the board.

It was stated that politicizing the police without appropriate safeguards would surely lead to influence peddling, unethical outcomes, corruption and conflicts of interest. To varying degrees, that's been raised by other presenters, that to have the local appointments have the majority somehow, aside from the budgetary question, would lead to this politicizing. Do you have any comment on that, sir?

**Mr Campbell:** I complimented the previous presenter not on the fact that she felt it was unethical to municipal representatives but on the fact that I thought she made a good presentation.

**Mr Crozier:** I thought it was too, and I wasn't being tricky.

**Mr Campbell:** No, I realize that. I think that the present standard should be maintained. I think the present standard works very well. We in our service board, for instance, have three provincial reps and two appointed by the municipality, the mayor and myself as a matter of fact, and we have a good cross-section of our community in the provincial reps. As I say in the brief, I think there would be some onus put upon, or suggested at any rate, municipal representatives to toe the line. I mean, "We appointed you and we certainly want to see some results from that."

We haven't had that from the province; at least I'm not aware of it. All of our representatives on all the service boards that I've sat on have been good, fair representatives who work from their own actions. They seem to be open-minded. In a small community you certainly know the political affiliations of certain people, but I've always thought that we work in the best interests of the community. I think that's very important. I think you could lose that if you change the structure of the board.

**The Chair:** Thank you, Mr Campbell, for your presentation.

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HAROLD GINN

**The Chair:** Our next presenter is Mr Harold Ginn. Welcome.

**Mr Harold Ginn:** Thank you, Mr Chair and members, for the opportunity to make this presentation. My name is Harold Ginn, and I'm a lawyer at a firm here in town. I do periodic assignments as a part-time assistant crown attorney, and I sit on the London Transit Commission as an unelected municipal representative appointed as a member of the commission. I'm not here, obviously, to speak on behalf of the Ministry of the Attorney General

or the London Transit Commission; I'm just here to make some personal observations about this act, which I've read.

One thing I definitely support in this act is a municipality's power under the new act to appoint a community representative to a police services board. The act says that the municipality has to appoint someone who is not an elected council member or a municipal employee. I just wish to point out that London here has a rather rich tradition of appointing through its council, at the recommendation of the board of control, community representatives to various committees. That's what led to my involvement in the LTC, and I think it's a positive step in this act in that I think it's important that a police services board be accountable to elected and non-elected members of a municipality.

That leads me to the second point I wish to make, which ties into the first, and that is on accountability. It's a good thing that municipalities, on whose funds police services are raised, get to appoint a majority of members to a police services board. I say that as a taxpayer here in the city of London. As an Ontario taxpayer, I'm somewhat glad to see that OPP services won't be essentially given away any more to smaller municipalities without their own local police force. I'd suggest that in the new act change has been somewhat tempered with choice in that municipalities which currently are getting services through the OPP for free right now can either contract with the OPP for those services, they can contract with another municipality or they can set up their own services. I think that ties into a theme of being accountable to taxpayers.

I've read a lot in the media recently about complaints that the citizens complaint procedure under this new act is somehow stacked in favour of the police. I don't understand that from my review of the act for this reason: It would seem to me that there's a review procedure provided for in the act on behalf of the Ontario Civilian Commission on Police Services if someone's complaint is somehow ruled frivolous or vexatious in the first instance. So I don't necessarily buy the commentary that I've been hearing that somehow this is stacked in favour of the police.

It seems to me that the scope of possible citizen complaints under this act is actually broadened in this sense. Unlike the previous act, the act says that complaints can include complaints with respect to the policies and services of a police department in addition to any complaints that someone might have about the conduct of a police officer. I believe the scope of complaints under this legislation is actually broadened. I think it's broadened enough to entitle anyone like me, who is a resident of a municipality and a taxpayer in it, to more or less make complaints under the new act with respect to the level of service and so forth which isn't heard of.

Those are the good things that I see in the act. Upon reviewing it, I do have a few concerns. I can appreciate that perhaps smaller police forces in the outlying areas of London might be concerned about whether they can comply with the core elements of this act with respect to police services such as emergency response teams and those types of facilities.

Being a lawyer, I did note a prohibition against criminal defence counsel acting on police services boards. I can understand the rationale for that. I think it would be rather difficult for a police chief, a police officer or anyone associated with police administration to give evidence in a criminal proceeding when they are in effect being cross-examined by their boss. However, using my own personal situation as an example, if you take on a case in Lambton county, for instance, I don't think that's something that should prohibit you from serving locally in any capacity. It might be something this committee might wish to look at in terms of changing it so that you can't carry on as a criminal defence counsel in the area of jurisdiction which your police services board relates to.

Those are two concerns that I picked out of it. I'd be pleased to answer any questions you might have.

**Mr Crozier:** Good afternoon. I note that you said you've read the act, and although you haven't specifically covered this, I'd like your comments, since you are a lawyer. There has been some concern by some presenters that, let's say, the general question of police investigating police is not good, but the comparison has been made that to some extent the medical association is self-regulating and self-disciplinary; the same with the legal field. There are others — chartered accountants, for example — who carry out their own discipline.

Is there any area in this bill where you have concern, keeping in mind these self-regulatory bodies and self-disciplining bodies, that police participation in investigations internally would be a problem?

**Mr Ginn:** No, I'm not concerned, on the assumption that the same sort of standards exist within police regulation as exist within legal regulation. My own experience with the regulation of the law society has been that it has done a good job of self-regulating. To my knowledge, people who are appointed in any regulatory capacity with the law society have conducted their job with considerable ability. In the first instance, at least, I can't think of anyone better than the police to investigate police conduct. Certainly, my experience with the London police force would lead me to believe that any such duties would be discharged with the utmost integrity.

**Mr Crozier:** I appreciate those comments.

You perhaps have heard the discussion surrounding the appointment by majority either by the municipality or the province. You may have heard my question to the previous presenter. Being a past municipal politician, I rather resent it having been said that a municipal appointee might be more apt to be corrupt and those kinds of issues. Whether that municipal appointee will feel pressure from the budget side as opposed to the provision-of-service side I suppose depends on individuals and circumstances. Do you have any comment on that?

**Mr Ginn:** I've never done anything for the LTC feeling any particular pressure from the municipality, but then that's just me. If anything, putting the emphasis on municipal appointments rather than provincial appointments depoliticizes a police board. If we're talking about party politics when we say "politics," certainly those involved in municipal politics have to serve the whole community. That's basically how they get to where they are, not by picking and choosing who they want to serve.



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**Mr Kormos:** I appreciate what you're saying about the capacity of the police to investigate the police. I hear what you're saying. There have been two interesting comments made. One comment has been made several times, and that is that the process must not only appear to be fair, it must actually be fair. That's the corollary of, "It must not only actually be fair, but it must appear to be fair." That's a maxim you're well familiar with.

Moving to the issue of appearance, the argument is made, and it was made by several submitters, that an independent or arm's-length and/or civilian review is one which generates at the very least the appearance of fairness, which maintains public confidence in it. From your point of view — and again, I'm appreciating your point of view — how do you respond to that argument that's been made to this committee by several groups?

**Mr Ginn:** I think if you're concerned about the appearance of objectivity, that more or less is addressed in the second stage of any complaint by a review by the Ontario civilian police commission. If for some strange reason someone didn't discharge their duties with an objective review, being associated with the police services board or being a police officer, then I think that very often easily appears on the record of the proceeding and would readily be picked up by the civilian commission if it's properly discharging its duties.

**Mr Kormos:** Fair enough. Obviously, those same persons and groups who have talked about the appearance would refute and disagree with that and would talk about what they perceive as the capacity of the OCCPS to conduct a merely paper review, rather than its own investigation.

The other thing that's interesting, though, is that the Police Association of Ontario is where there's been a strange — not strange, interesting — meeting of minds on the issue. The Police Association of Ontario similarly objects to the role of a chief of police in conducting investigations and determining disputes. The impression one gets from reading the PAO submission and other regional or local police association submissions is that they would rather have a somewhat more independent and arm's-length review, from their point of view. What do we say, then, to police officers who appear to endorse that, perhaps not universally, but certainly through their organizations?

**Mr Ginn:** I guess it goes to how much you want to spend on putting someone you think is capable of doing that into the process. To my way of thinking, certainly police chiefs, one would hope, are familiar with the administrative end of things, and barring any misconduct, prejudice or bias on their part, I would submit they're the people who are best qualified in the first instance.

**Mr Kormos:** The issue of subsection 113(9) has also been raised. It was raised in response to a question by the Solicitor General, and that's the requirement that police cooperate in an investigation. Of course, in the broadest consideration of it, it has been argued that it includes a contradiction of one's right to remain silent. The Solicitor General says that issue is still open. It appears he's prepared to consider an abolition of the right to silence.

That was the impression he left. Do you have any views on how subsection 113(9) should be interpreted?

**Mr Ginn:** No. I, quite frankly, didn't give it a close reading before I came here today.

**Mr Kormos:** Fair enough, because that's not a part of this bill, but it has been raised, obviously, in the course of the hearings. I appreciate it; thank you kindly.

**Mr Klees:** Thank you for your presentation today. I'd like to follow up on the point Mr Crozier raised with you. At the risk of belabouring this, I do think it's essential, because it deals with the composition of the board. If there isn't confidence in the composition and integrity of the board, the entire issue of police services is undermined.

Interestingly enough, you're a municipal appointee in one of your roles. You refer to that in your presentation. There are those who have repeatedly made presentations to this committee that the change of composition, to have the municipality make that additional appointment, would undermine the credibility of the board, yet you're here saying as your first point that in your opinion it's a positive step. Can you help us to understand why there appears to be such distrust as a result of that additional appointment from the municipality, and is there something we could do to incorporate some changes to perhaps alleviate that concern?

**Mr Ginn:** I can't explain the distrust. All I could do is repeat the observation that in my opinion it's better than a provincial appointment in the sense that the people who are making the appointment probably know the person they're appointing better, through experience. If the process that London goes through to appoint a municipal representative who's non-elected and not an employee of the municipality is used, there's an interview process and you submit a brief about what you would like to do. I'm only citing the London experience, but if the London experience will be the Ontario experience, then I have a feeling that it will be a better system.

**Mr Tilson:** I have two questions for you. You may have partially touched on both of them. You've indicated you read the bill. Is the appeal process that is being formulated in this bill adequate?

Second, people have talked about lack of trust in police investigating and chiefs of police getting involved and therefore we should have a civilian investigatory body. You raised the questions, how much do you want to spend, how much do you want to get involved? I guess you could go even further and ask, who is capable of doing that? It all may boil down to the question of, who's going to watch the watchers? We've got the law society reviewing lawyers, we've got judges reviewing judges, we've got the College of Physicians and Surgeons or whoever, who look at doctors who are not acting appropriately, and so on for the different professions. If you really have that much distrust of the system, you could say that about anything: Who's going to watch the watchers? Who's going to watch the civilian body? I think it all boils down to, what's the best system, who can investigate it the best, who can do the best job for the resources that are available?

**Mr Ginn:** With respect to the first point, about whether I think the appeal procedure is adequate, obvi-

ously this hasn't been implemented, we haven't seen it work, but at first blush, upon reading it, there's nothing there that offends me. I'm confident in it.

With respect to who watches the watchers, it comes down to a question of money and how much you want to spend to do that. I think equally it also comes down to the question, just how many incidents arise in the province of Ontario during any given year which cause us to set up an ideal system where the watchers are watched? I can only express my experience with the London police in saying that such incidents are few and far between.

**The Chair:** Thank you, sir, for helping us in our deliberations today.

#### WINDSOR POLICE ASSOCIATION

**The Chair:** Our next presentation will be made by the Windsor Police Association, Mr John Moor.

**Mr John Moor:** Good afternoon, Mr Chair, how are you this afternoon?

**The Vice-Chair (Mr Ron Johnson):** Very good, thank you. You'll have 20 minutes for your presentation. You can start any time.

**Mr Moor:** My name is John Moor. I'm the administrator of the Windsor Police Association. I've been a member of the Windsor Police Service for 24 years. I currently hold the rank of sergeant. As you'll recall from our presentation on Monday, I'm also the president of the Police Association of Ontario.

With me today for this presentation is Mr Michael Madden. Mike is the president of the Windsor Police Association. Mike has 29 years as a police officer. He served with Metro Toronto many years ago and is now serving as a constable with the Windsor Police Service. Mr Pat LeBlanc is a director with our police association in Windsor and is a sergeant in our patrol division. This is Mr Cam Meloche. The presentation package we gave you would indicate that it's Mr Rick Houston, but Rick has deferred to Mr Meloche, who's the president of the LaSalle Police Association down in the Windsor area.

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Our association in Windsor represents approximately 395 sworn police personnel and 133 civilian personnel. We represent every member of the police service in Windsor, save and except the chief and the two deputy chiefs. Our members provide professional police services to the 200,000 citizens in the city of Windsor, along with a transient population that increases dramatically on a daily basis in our particular city. This is no doubt attributable to the fact that we're across the river from the city of Detroit, and I'm sure everybody is aware of the crime rate in that particular city that spills into our communities. Also I'm sure our casino, it's a proven fact, draws many people into our community on a daily basis.

There are many aspects of Bill 105 which are of serious concern to our members in Windsor: concerns for their rights as police officers; also their rights as citizens in the communities that they police themselves; and concern for their ability to do the job, to perform as police officers as safely and efficiently as they possibly can. They also have a concern for the citizens they're sworn to protect, that they may not be aware of the consequences of this bill.

This bill, in its present form, will most certainly have a negative impact, not just for our members but for police officers across the province. Over the past three days I'm aware that you've heard presentations made by my colleagues. They've addressed in detail many of the problems with Bill 105 and have spoken at length in particular to the proposed amendments that deal with oversight and discipline. Those seem to be the areas that many presentations have dealt with. They've clearly articulated that the basic rights of our members will be infringed upon with this bill if it's passed, and even eliminated in many areas.

This is certainly the case, I would suggest, in respect to the proposed amendments regarding discipline, unsatisfactory work performance, informal resolutions, public complaints, the special investigations unit and municipal control of not just police services boards but of police service budgets. Our membership in Windsor shares those concerns that have been expressed, but due to our limited time that's allotted this afternoon, we will be focusing our presentation on other concerns within Bill 105.

Having said that, I would like to quickly address one area dealing with the discipline section that just arose with a comment by Mr Kormos regarding the position of many police associations, in particular the Police Association of Ontario, with respect to the chief's involvement in the discipline system. From your remarks, Mr Kormos, I assume you felt our presentation was saying we didn't want the chief involved in the discipline process, that we were looking for an independent body to be involved in that process. That's not the position, and if we left this committee with that position, I'd just like to clarify it.

Our problem very clearly with the discipline system and the chief's involvement, as it's set out in Bill 105, is the fact that the chief of police or his designate can impose what we consider to be an undue and overly harsh penalty without a hearing, that our members don't have the right to have a hearing. That hearing, as we're proposing, would be before a member of the police service of the rank of inspector or above and be prosecuted within the police service at that level in those hearings. Just to clarify that, we were not looking to go back to a system of public complaints with public hearings. We feel that discipline is an employer-employee matter that would be dealt with in that fashion, just to clarify that before we go on.

The four areas that we believe have not adequately been dealt with or have not been dealt with at all as regard the amendments in Bill 105 are amalgamations, auxiliary members, probationary periods for Ontario Provincial Police officers and civilian members within the OPP. We'd like to address these four areas this afternoon.

In regard to amalgamations, currently in the county of Essex, policing is performed by the Windsor Police Service, along with nine other municipal services in the county, and in some locations the Ontario Provincial Police. Over the past many years there has been a great deal of speculation, a great deal of talk going on between either members of councils in that area or members of police services, chiefs, deputy chiefs in regard to amalgamation of one or more of those police services.



Certainly since Bill 26, and more importantly since comments made by the Solicitor General in the past with regard to the amalgamation of police services, and the viewpoints of government indicating that's the route they would like to see municipalities go, there's a lot more talk going on about amalgamation. It's not just in Essex county, but across the province, but I'd like to deal with what's happening in regard to amalgamation down in Essex county.

The amalgamation process is not new. It's been around for 30 years, with the regionalization of policing in Peel and Durham and those areas for many years. What's different now, though, is that unlike in the past, when those amalgamations and regionalizations were taking place — the government of the day passed specific legislation dealing with the amalgamation process and how that was going to take place so that it would be done in an orderly, fair and efficient manner — that's not taking place today. Bill 105, while it does provide some ease for municipalities to enter into amalgamation proceedings, for that to take place, certainly doesn't address the rights of the members or how that process will take place.

With any amalgamation of police services, there have to be certain safeguards in place to guarantee the rights of the members who are going to be involved in the process — not just the rights of the police officers, but the rights of the civilian members of those police services — and they have to be protected and guaranteed through the legislation. Without it, the police services that are received by the communities where there are amalgamations are going to suffer, there's no doubt about that. If the members are not informed as to what's happening or they're not guaranteed that their employment is going to be there, all sorts of things happen, and the first thing that happens is a vast decrease in the morale of those members of the police service not knowing whether or not they're going to be employed the next day. That can't be allowed to happen and shouldn't be allowed to happen.

One of the biggest areas of concern we have in amalgamations is the lack of involvement of associations from the onset. If it's not going to be legislated in the act or in the regulations that associations have to be included, then I can assure you that 99 times out of 100 they will not be included. As I said earlier, in Essex county there are talks going on right now, very serious talks, among the chiefs of all 10 municipal police services, along with representatives of the Ontario Provincial Police. We have been able to obtain minutes of those meetings. The associations have been expressly excluded by the steering committee, composed of the chiefs, from any discussions.

There are 50 members from those various communities on these committees. They've set up 22 subcommittees dealing with everything from finance to budget to equipment to patrol issues that have to be addressed to investigation services that will be provided — all things that are going to impact very greatly on all our members in that area, yet there's not one association representative from the 10 police associations in that area that has been allowed. Not that we're not there; we've asked, we've tried and we've been expressly told we will not be there

until the whim of somebody on the subcommittee decides they need to ask us a question.

It is difficult to understand how the chaos this will lead to can't be comprehended. If a decision is reached to amalgamate one or more of those police services, if the associations are brought in at the last minute, there are 10 collective agreements that have to be addressed, with a multitude of employee-employer issues that have to be resolved that just won't be able to if we're not there right at the beginning.

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This example that's happening in Essex county is no different from other amalgamations that have taken place where the associations have been excluded. We feel that there have to be amendments made to Bill 105 in the area of amalgamations, not just making it easier for the communities to do it. We're not opposed to that happening. We feel there are some great benefits for our members and the citizens of our communities in cases of amalgamations. We just want to be included in that. As such, we would recommend that the following amendments be considered by this committee for inclusion in Bill 105.

First and foremost, and I won't belabour the point, is the association representation, that it be mandated that we be included in the process from the beginning, and that it not just be a façade; that we be given all the materials and documentation required for us to facilitate working within the committee and assisting with it.

The second issue that we feel has to be mandated is the comparable employment issue, that the same or similar employment will be offered to all members of the police service, sworn and civilian, in the new service, and that would be at the same rank or higher rank or the same classification or higher classification as in the manner of a civilian employee; and that their salary and benefits and working conditions would have to be the same.

We would respectfully request that this legislation include OPP officers, that if they are affected, if there are areas such as occurred up in the Ottawa-Carleton area where Ontario Provincial Police officers were taken on to that service, they be granted the same rights as set out for municipal officers. We are not proposing at this time that this same right be extended to civilians working for the Ontario Provincial Police. There are other issues to be addressed there. I know it was touched upon by the OPPA on Tuesday and we will be touching on that matter a little further in our presentation.

Ranks also have to be addressed in the legislation to ensure that a member's rank is guaranteed with the new service, that if the member happens to be a sergeant with the LaSalle Police Service and it's amalgamated with Windsor, in the case of Mr Meloche, he would come across as a sergeant. He wouldn't have to undergo rank determination hearings. He would come on at that rank.

Seniority is also an issue that needs to be addressed and not left to chance: that a member's seniority would be included and any past seniority that was recognized by the previous police service would be recognized by the new service.

A very important part of this whole process is knowing whom to deal with, and I think this leads to our next issue that should be included in the amendments: police services boards. If there's going to be an amalgamation undertaken, it's our suggestion that an interim board be established at least 18 months prior to the amalgamation taking place. That will allow for an easier transition. It will also allow for contracts to be negotiated prior to the amalgamations taking place, and where you find yourself with 10 police services amalgamating into one and there isn't a collective agreement the same for them. That just creates a great deal of morale problems when you have people with different wages working side by side doing the same job.

Reassignment is also an issue that needs to be addressed. In the situation of amalgamations where you're taking in large areas, there has to be some protection for members so that they're not transferred from an area where they've worked for the past 25 years to an area that could be 40 or 50 miles away. There have to be some provisions to require police services boards and associations to negotiate some sort of compensation package for those types of individuals.

We also believe that retiree benefits must be guaranteed in amalgamations. With the dissolution of municipalities or the amalgamating of those municipalities, retirees should be guaranteed that the benefits they retired with, they will earn for whatever period of time was set out in their collective agreements. There should be no loss of benefits because of that.

**The Vice-Chair:** Mr Moor, I'm sorry to interrupt. I'm just looking at the time here and the amount of presentation you have left. You're down to about three minutes, so you may want to highlight some of the most important points of your presentation.

**Mr Moor:** Okay. I'll get through it.

Dealing with auxiliary persons, we believe that the act did not adequately address this issue with respect to auxiliaries during the summit in June. I understand there was a presenter yesterday who indicated that the stakeholder groups did not reach agreement or consensus in the area of auxiliaries. I was at that process, and there was agreement and consensus in some areas and just a majority of agreement in other areas with regard to auxiliaries. That dealt with the duties and responsibilities of auxiliaries, it dealt with the uniforms they could wear, things of that nature. We feel it's very important, as you'll see in our brief, and I won't read it out.

The Ontario Police Commission, as it was known then, addressed the issue in 1981, that there was a problem with the use and abuse of auxiliaries, and that's what's occurring across the province. In the past year, we as a provincial association have had to deal with some police services issuing pepper spray, OC spray, to auxiliaries and putting them out on patrol with it. Actually, it's a prohibited weapon and by law they can't carry it, but they're being issued with it and sent out into the public with that.

We've had cases in our own local community where a chief decided that members of his force weren't numerous enough. He needed somebody for surveillance, so he gave an auxiliary officer a shotgun and put him in a car

and sent him out on surveillance where shots had been fired. The practice continued until the association intervened with the ministry to put a stop to it. We have all sorts of examples that we brought forward to the ministry on the use of auxiliaries for the purpose of writing tickets, being put out on patrol in police cars. These people aren't trained properly, they aren't equipped properly. They shouldn't be doing the jobs of police officers.

We think there's a place for auxiliaries. They can be used if there are proper restrictions put in place. The regulations need to strictly outline what functions they can perform, and that cannot include any of the duties of a police officer; it shouldn't include it. They shouldn't have any uniforms that appear the same in any way, shape or form as a police officer so that the public clearly can distinguish between a police officer and an auxiliary. We think that is very important and should be addressed within the regulations.

Civilian members of the OPP — I'll go very quickly through the last two. Probationary period for OPP officers: I know that's been addressed before the committee. We want to reinforce it because we feel that it's going to occur down in our area in Essex county, where if there are OPP takeovers, if you want to call it that, or if they assume policing of some of the municipal areas in Essex county, those police members from the municipal forces should not have to undergo a second probationary period with the OPP. They shouldn't have to do that. They've already served one probationary period. We ask that you amend this legislation to exclude that secondary probationary period, the same as it's excluded for OPP members who would come to Windsor or to any one of the other local forces. They don't have to do that.

Lastly on civilian members within the OPP, we also feel as a local association that civilian members of the OPP should be represented by the Ontario Provincial Police Association. They should be removed from OPSEU and allowed to be represented by that police service. Right now under their umbrella with OPSEU they have the right to strike, as you all know. They're the only police employees in this province who have that right. We feel it's inconsistent with the act and how it treats the rest of the police employees across the province and we certainly feel that the act should be changed, either the Public Service Act or the Police Services Act, through Bill 105 and its amendments to make the necessary change there.

**The Vice-Chair:** Thank you, sir. I appreciate your speeding that up a bit. As you know, we have copies, and the committee members will certainly have a look at the remaining information that you gave. On behalf of the committee, I want to thank all of you very much for the presentation.

1420

#### CITY OF LONDON

**The Chair:** The next presenter is Grant Hopcroft, the deputy mayor of the city of London, and London Police Services Board member. Good afternoon, sir. How are you?



**Mr Grant Hopcroft:** Good, thank you, Mr Chair. I feel almost naked here without having both the chairs on either side filled, and I want to assure you it's not because of lack of interest on the part of our council. We're holding a hearing across the street dealing with the Health Services Restructuring Commission's report in London and most members of council who didn't have prior commitments are already over there.

I'd like to begin by saying I'm pleased to recognize some of the faces around the table as former municipal colleagues and I hope the city's submission in that regard will fall on somewhat sympathetic ears.

In addition to being deputy mayor of the city, I also serve currently as chair of the London Police Services Board. Because of some of the time constraints in pulling things together I am not able to make any comments on behalf of the board today. Any comments in that regard would be personal ones, if there are any questions, but I am submitting the brief you have before you on behalf of the council of the city of London.

First of all, we would like to congratulate the provincial government for introducing amendments to the Police Services Act. We are supportive of the amendments in so far as they apply to our community and we appreciate the opportunity to present our comments.

We are specifically encouraged about four particular amendments that are included in the bill in the areas of governance, police budgets, the complaints systems and joint police servicing.

On the issue of governance, Ontario municipalities have been seeking improvements to the governance of policing for many years. While police services boards will remain as the governing authority of policing services, the changes to the composition of boards and their relationship with elected municipal councils are welcomed. The bill provides a new governance model that better reflects the public's expectations of their local elected representatives and will no doubt lead to a relationship between police boards and elected councils that is clearer and less confusing to the public.

In London, the proposed changes will result in the membership of the board remaining at five members. However, the composition will change so that three board members rather than the existing two will be appointed by city council, one of those being a non-elected community representative, with two members continuing to be appointed by the province.

We note in particular that with permission we can have a board of up to seven. We really are a little puzzled why district and regional governments would have the authority to apply, but city governments would not be in a position to do so unless they're in a joint board. A technical amendment in that regard would certainly be welcomed, to recognize, with the amalgamations going on and new cities being created, that the boards in those communities that are currently in districts or regions might more appropriately remain at their current size.

It's our understanding that the appointment terms of the existing police board members will be maintained and that there will be a transitional provision. The city supports that smooth transition from the current structure to the new governance model.

In the area of budgeting, London city council has consistently sought greater control and accountability over police in operating and capital budgets. The 1997 operating budget that's been established by the police services board in London is nearly \$41 million and is funded almost entirely by London property taxpayers. Under the current legislation, the elected council does not have the ability to amend the police budget to reflect local financial realities or to balance police budgets with all other community priorities. If the elected city council does not agree, the budget is referred to the Ontario Civilian Commission on Police Services for a determination.

The bill proposes to change that process so that boards must submit proposed operating and capital budgets to local councils for their consideration and approval. This fundamental change recognizes that financial control and accountability should rightfully rest with elected municipal councils rather than appointed special-purpose bodies.

London city council is committed to guarding public safety and will not take lightly its enhanced control and accountability over the safety of London residents and businesses. The bill does provide an opportunity for police services boards to pursue their budget demands with OCCPS in those cases where police services boards are not satisfied with budgets as established by local councils. We would agree that this is a reasonable provision, given the importance of public safety and the consequences of neglectfully underfunding police services.

On the issue of the complaints system, the bill introduces a new system of police oversight by merging the existing discipline and public complaints systems so that there will no longer be separate processes for addressing internal disciplinary matters and complaints originating from the public. The proposed replacement of the existing commission, the office of the police complaints commission and boards of inquiry with a single agency will result in a simpler system of oversight that will be easier for the public to access. Additional efficiencies, as well as enhanced local accountability, will also be realized by the expanded role of police services boards in the complaints system that is proposed in the bill.

The bill also introduces changes that will allow any two or more municipalities, with the consent of the Solicitor General, to establish a joint police services board. The proposed changes will enable a police services board to provide some, but not all police services to another board. These joint police servicing provisions will enable innovative joint police servicing options to become more achievable.

The London Police Services Board, for example, has recently entered into discussions with some neighbouring municipalities about police servicing possibilities as a result of the changes to funding with respect to the OPP. The proposed changes will permit such possibilities to become a reality provided a joint board is established. However, there may be situations where a municipality wishes to purchase its services from another municipality's police services board, and legislative amendment to allow such situations would be helpful.

In conclusion, the city supports Bill 105. It contains elements which Ontario municipalities such as London

have been seeking. The bill addresses the need for more local control, efficiency and accountability, while at the same time ensuring public safety throughout the province is not jeopardized. We would encourage the standing committee to recommend to the Legislature that the bill be given its final reading and proclaimed into law as soon as possible.

I'd be pleased to answer any questions members of the committee might have.

**Mr Kormos:** Thank you, sir. I want to deal with your comments on the complaints system because the Police Association of Ontario is concerned about what this bill does in terms of a lack of independence of adjudication in terms of complaints made against police officers.

In its brief the Police Association of Ontario says: "On the other hand, we ask for independent adjudication for discipline. Instead,...the chiefs of police have...greater control.... That's not always fair, especially if the chief is more concerned with public image than fairness for his or her police officers." The Police Association of Ontario, as well, objects to the bill in that it doesn't provide for an appeal by a police officer found guilty to the OCCPS.

Do you support the police officers' positions in that regard, that the final power for adjudication of complaints and imposition of discipline should rest with the chief of police, as compared to an independent adjudicator, and that their rights to appeal should extend to what would be the new commission?

**Mr Hopcroft:** Perhaps I could preface my answer, Mr Kormos, by saying that London has been blessed, I think, with having an excellent relationship between our board and our police association. We've also I think had a better relationship than most communities between the municipality and the police services board as well.

Our experience in London has been that we have a chief who while very fiercely proud of the role the London Police Service plays in protecting the health and safety of our community, as well takes a very keen interest in the morale and esprit de corps among our officers, the men and women who are on the streets in the London.

I think we have a situation where perhaps some of those concerns wouldn't be as relevant as they are in other communities. Speaking as chair of a police services board for a moment, I think the issue of ensuring the integrity of the men and women who are out there representing the police service in a community is something the chief ultimately and the board are accountable for. To the extent they are accountable for the activities, they should be accountable for the discipline.

There's obviously a need for some rules of natural justice and in many cases those rules of natural justice are established through working agreements and through the Police Services Act. I don't share the concern to the extent it's been represented to me here.

**Mr Kormos:** Even by the London Police Association?

**Mr Hopcroft:** I'm sorry, I'm not aware of the specifics of the London Police Association brief. If you have any direct comments from that, I'd try to respond to those.

**Mr Kormos:** Which I understand endorses the Police Association of Ontario position. Thank you.

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**Mr Tilson:** I believe I remember you when I was on AMO and we both looked physically much different — quite a few years ago.

**Mr Hopcroft:** Yes, grey hair.

**Mr Tilson:** You have gone on and I think people not only respect the work you are doing in London but also the work you continue to do in AMO. For that reason, it leads me to my question that we have had delegations particularly from Toronto that have come forward and said to us: "Well, you know, politicians are corrupt. Municipal politicians in particular are corrupt and they're going to appoint their pals to the police services boards, they're going to control those police services boards, the police services boards will be puppets, and not only that, in their effort to cut back in restraint they're going to pick on law and order and they're going to cut back on budgets." In other words, there's a total lack of confidence with respect to the involvement of the local municipal politician.

Given your influence with respect to AMO and your influence as a London councillor, or a London deputy mayor I guess you are, would you comment on those general remarks that have been made to this committee?

**Mr Hopcroft:** I obviously don't agree with those general remarks. I guess politicians as a profession are as prone to having bad apples in the barrel as any profession in the community in which we operate. While there are obviously risks in any political system for the types of abuses you've enumerated, those types of abuses I would suggest have existed under the current provincial appointment process, they've existed with respect to concerns between politicians of provincial office and the OPP, and we've even seen it at the federal level with politicians and the RCMP. So I don't think one can generalize.

To the extent the bill reflects a mixed process of appointments, there is still a provincial interest reflected, although a minority one. It recognizes there is still a provincial interest, but recognizes that the money still comes from the local community. While in some cases it's sometimes convenient for municipal councils to criticize the activity of police boards when it doesn't particularly suit their budget guidelines from year to year, I think ultimately when councils have to make decisions and they're accountable for them, you end up with a little less rhetoric and a little bit more decision-making that's in the interests of the community. If anything, I think it'll cut down on some of the rhetoric we've been hearing in that regard.

**Mr Crozier:** Good afternoon, Mr Hopcroft. That's essentially the question I was going to ask because I come from a municipal background and I'm concerned about the idea out there that municipal appointments will be more corrupt and the municipal councils will jump on budgets and tear them apart and reduce them drastically. I don't share the view that many do. I noted this morning that the London Urban Alliance on race relations, a group you no doubt would be familiar with and deal with —

**Mr Hopcroft:** Yes.

**Mr Crozier:** Did you say you were chairman of the police services board?

**Mr Hopcroft:** Chair, yes.



**Mr Crozier:** I found it interesting that they said: "The chaos and the haemorrhaging of money must stop. Our message is, keep it simple and spend less." They were talking about police services, and yet went on to say in another paragraph that OCCPS are going to have to keep an eye on this so "police organizations are adequately financed, staffed and resourced. Otherwise, it can reasonably be anticipated that some local politicians, with alliances to members of the board who will do their bidding, will surely try to bleed police services." So we've got a group saying on one hand the bleeding has to stop, but on the other hand says, "Make sure you have a watchdog in place because we feel these municipal appointees are going to bleed it." Those are the problems we look at, but I don't —

**Mr Hopcroft:** I've always been an advocate for very strong accountability to local councils on the part of all boards and commissions and local agencies. When you come to talking about law enforcement, I think we all recognize there's a need for the law enforcement net to be a reasonably consistent one across the province so that we don't have the types of problems that have occurred in other jurisdictions, and probably you could even say happened in Ontario years ago as well. So we recognize there still needs to be an oversight mechanism, but the bill I think strikes a good balance, maybe not one that goes as far as I would have preferred to go, but it does strike a balance between those two interests.

**The Chair:** Thanks, Mr Hopcroft.

**Mr Hopcroft:** I thank the committee for the opportunity to make the presentation today and in particular to be able to make the presentation here in our community. I would like to commend all the members of the committee for taking these hearings out around the province. It makes the process a lot more accessible. I hope you enjoy your stay in London.

#### ORLANDO ZAMPROGNA

**The Chair:** Our next presenter is Mr Orlando Zamprogna. Welcome, Mr Zamprogna. I understand you're a member of the London Police Services Board.

**Mr Orlando Zamprogna:** Yes, I am.

**The Chair:** May I thank you on behalf of the committee for accommodating us. I understand there was a change of schedule. I remember, as a member of the Waterloo Regional Police Services Board, the little pay I received and the great amount of work I did for my community. I'm sure you do the same, so thank you for —

**Mr Kormos:** Things sure have changed, haven't they?

**Mr Zamprogna:** Are you looking for an increase in your stipend?

**The Chair:** No, I was just trying to thank you for accommodating the committee and the change of schedule. You have 20 minutes.

**Mr Zamprogna:** All right, thank you. Good afternoon and thank you for this opportunity.

You might wish to know some pertinent background on myself — I don't know if you have it — that's related to my interest here today. I won't bore you with the rest of my background. I'm a professional engineer, in

management. I've been a member of municipal council for 22 years, starting in 1970, 11 years as deputy mayor. I served three terms on the former police commission, including chair, and I am presently serving one term on the police services board. I just wanted to put that as background.

Basically, I support the thrust and overview of the proposed revised legislation. I'm commenting on key messages only, my involvement in getting here today, the result of looking at what appears to be an executive summary of what you've published. I can only confine my comments to that. However, I have discussed some of the elements that are in the more detailed proposal with some of my colleagues and with some of the police.

Regarding the topic of governance, I believe you should identify that the board component from the municipal side need not be a predominance of councillors. I found some vagueness in this brief as to whether or not there had to be a certain number of councillors or whether they could appoint from the public. There seems to be one, but I'm not sure if it could be a majority, a minority. My suggestion is that you have some flexibility in that. It might be useful indeed not to have a predominance of municipal councillors, but that the city council would appoint where appropriate. I will get to the reasoning for that in a minute.

I think you should take great care to define the scope and intent of "municipal authority to set police budgets." This authority should be limited to the overall cost only. The tendency for municipal councillors increasingly, as I've seen through the years, becomes one of checking budgets on a line-by-line basis. I find regrettably that their level of interest, or perhaps of interference depending on how you want to phrase it or I may wish to phrase it, not you, is becoming more administrative than executive or policy-setting. I have reason to say that. I've seen it happen on a variety of arm's-length organizations, boards, commissions, where municipal councils faced with the request for a budget will inevitably become involved in a line-by-line scrutiny and judgment.

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I don't think this serves the purpose. If that is to be the case, and it becomes the case incidentally, then I think you will find that there is probably no purpose in having a police services board. It might as well be a committee of city council. I would rather suggest that would not be appropriate. It would be improper, as a matter of fact, if we are to deal with police at some arm's-length definition of what the service is supposed to be in Ontario. So again I have to caution against what I've seen to be the continuing trend of municipalities and municipal councillors becoming overinvolved in administrative definition of what is called the budget.

We should define clearly how an appeal can be launched to the province if there is a substantial disagreement between the city council and the police services. Perhaps I don't understand it by reading this; it may be well covered in the details, but I note that in theory the police services board is not constituted numerically to be in a position to appeal a municipal decision for the budget. It just happens to be that way. Frankly I don't think it would happen in London; it might happen somewhere

else. People appointed, whether it be by the province or by the municipality, are still citizens at large living in the area and presumably they make the right decisions.

However, when it comes to the issue of an appeal of a budget, you propose to change the tables so that — and I support that; I don't have a problem with that. However, the question is, can an appeal actually be launched? Numerically, it would appear that is not the case. It puts the police association and the police chief in a difficult position. So you might have to struggle with that one. You might have to struggle to the degree I suggested before, that more appointments might be made by a broad constituency rather than by appointing councillors. That's what I meant in the previous statement.

At issue here is the process to define adequate policing and appeal to review adequacy standards. My experience here in London is that if we were to look at the adequacy standards that might apply to the London area, we're probably below what would be referred to as the minimum requirement. Yet there is considerable support by the public, the police chief, the services board and the city council for the service that's being delivered, so I caution against the method by which an appeal is going to be made and how it is to be substantiated.

The streamlining of the oversight model is supportable, in my belief. As in practically all judicial and quasi-judicial jurisdictions, there are too many avenues of appeal presently. This has a tendency to reduce the accountability of people who have responsibility for discipline, judgement and corrective action.

However, having said that in support of the mechanism that is being developed, there is a need to be very wary of the application of this legislative position. At issue is the usual practice of having government officials prepare the regulations; for instance, the definition of "serious injury," as set out for SIU intervention. It seems to be very normal for me to interpret that; I would have no problem. However, once government officials — not the political stream, for whom I have a great deal of support — become involved in defining the regulations, then governments and legislation somehow get moved off to whatever appears to be the thinking of the bureaucracy and I believe, without looking at any particular party, and I don't have any support or contamination by any group or whatever, suffer from this problem and will continue to suffer as long as the regulations are set by the internal administration to a large extent.

I have an overall recommendation for you, and please don't get too excited about knocking me off this chair, but I would propose the police chiefs association be asked to develop or to draft the regulations which support the proposed legislation. The benefits of this process include: The chiefs are most accountable for the performance of policing and will have their accountability enhanced; there will be fewer complaints on interpretation of regulations and an annual review to request changes. As you know, they meet every year and they send requests for changes; they complain if things are not working. There should be, as an output, a series of regulations which are more readily applied, with a reduction of blame on the bureaucracy for inefficient processes, documents and reports.

I have heard time and again that the amount of time to process any particular incident is increasing because of bureaucratic requirements as a result of regulations. If the chiefs are indeed serious about this, if they're indeed prepared to streamline the operation of police services, as I believe they are, then they could be made more accountable and they'd be asked to prepare the draft regulations to support the document. After all, it is clear the minister will adopt the regulations as he sees fit, so there is no problem in that respect. I'm only talking about a draft. But this proposal, at the very least, gives policing a chance to streamline procedures, develop efficient processes, increase accountability of the service delivery component and reduce complaints of government bureaucracy.

Thank you, gentlemen. Mr Chairman, I appreciate the chance to speak.

**Mr Klees:** Thank you for your presentation. I'd like to follow up, simply because of the comments you've just made about the chiefs of police. Through a number of presentations that we've had, specifically coming from officers themselves, there seems to be a great deal of concern about the complaints process in that the chiefs of police under this bill are the point of entry, if you will, and a great deal of authority is placed in the jurisdiction of the police chief.

As a member of this committee, frankly I was surprised at the lack of confidence that there seems to be in the field that the police chiefs will be doing the right thing at the point of that complaint. I would be interested in your perception of that problem, as a member of the police services board, and whether you feel that changes should be made to this bill, given the kind of feedback that we've had on this, or whether you feel the answer lies elsewhere.

**Mr Zamprogna:** Let's be specific. One of the big issues is whether the police chiefs have five days of disciplinary action, as opposed to the two days they have right now. It works very well at the two-day level and if it gets any higher than that, it gets to the next level. If you ask the police chiefs to be accountable for that regulation, I think you would find very quickly they would not abuse it. They would probably keep to the lower level.

They want to have peace in the family, if you will. They want to make sure things work. They want to make sure it's fair, because that's the only way the system will function properly. They will find the right level of disciplining or the right level of regulation to support that disciplining, and they'll be cautious enough. I've met with a lot of them. We've been away at different opportunities across the country and I've listened to them. As a group, I think their interest will be to make sure that they're accountable and that they will find the right level of jurisdiction.

As long as the regulation suggests a different number, they will be quite able to say: "Well, it's not my fault. They gave me this and I can go up to that point." I would rather suggest I would put that level of accountability and judicial responsibility right at their doorstep, there being an opportunity, then, to have a small appeal mechanism



to the services board if it goes beyond that or if there is a need for it to go beyond that.

**Mr Ed Doyle (Wentworth East):** Mr Zamprogna, an issue that's come up here quite often is the issue of people who are appointed to the board, whether they be appointed by the province or appointed by — you don't seem to have too much concern with that.

**Mr Zamprogna:** I've been appointed by just about everything you see walking in this city and I don't feel any different, because the moment I'm appointed to a board, I'm accountable and responsible to that board.

**Mr Doyle:** But it doesn't make any difference who made the appointment, whether it be municipal or provincial?

**Mr Zamprogna:** If you recall what I said before, there is a trend for municipal councils to become administratively overinvolved. I suggest to you that a citizen at large, whether appointed by the municipality or by the province, has perhaps a slightly better handle to see the broad picture and not become involved in the parochial position which might apply at the time.

What's been drafted here is not bad. My suggestion is you give it even more latitude and allow for additional appointments for the municipal component, if you like.  
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**Mr Ed Doyle (Wentworth East):** Rather than an elected official.

**Mr Zamprogna:** Exactly.

**Mr Doyle:** You don't feel there would be a problem with accountability with that?

**Mr Zamprogna:** Not at all. No, I don't. I have found in my experience, and I suggest to you it's been fairly broad, that people appointed take their appointments quite seriously, and it would be very nice in fact if they were accountable to the degree that they come before people like yourself on a regular basis to give an accounting of how they see things happening.

**Mr Crozier:** A question just occurred to me and I want to start by saying I ask this —

**Mr Zamprogna:** May I ask, which of these glasses are polluted?

**Mr Crozier:** They all are.

**Mr Zamprogna:** Thanks.

**Mr Crozier:** I ask this question without prejudice. We elect public utilities commissions so they can be accountable to our citizens. We elect councils so they can be accountable to our citizens. What would you think if police services boards were elected?

**Mr Zamprogna:** Interesting question. I had not given it much consideration because the system appears to be working rather well. Let me try to back off a bit. We appoint people to boards of hospitals. They spend a lot more than municipalities do. We elect and appoint people to universities. They spend a lot more than municipal councils do. I'm sure that those boards feel that they are accountable to somebody. For the life of me, I don't know to whom, but they seem to function somehow. Incidentally, I've been a member and vice-chairman of the university board of governors etc, so I can speak with some knowledge about the accountability argument.

I think you'll find that if people are accountable for their actions to another group of peers who are very

sincere in their activities, whether they're appointed or elected, the accountability does not really decrease. I have a great deal of belief that the political system has been maligned and therefore it is suffering and your question may therefore reflect some of that, I suggest. I don't think that is the case and ought not be the case, certainly not in the future. I don't have any doubt that I'm working on the police services board today with the same interest, willingness and support that I had before when I was deputy mayor and appointed and chair of the police services board. I don't feel one speck different.

You might consider, however, the level of expertise, interest and responsibility of those people who are appointed. Perhaps the answer is in the scrutiny and in the selection, as opposed to the type.

**Mr Crozier:** I appreciate your attempting to answer that. It's one of those questions I've always wanted to ask, but you seemed to be the person who would answer it forthrightly, so thank you.

**Mr Zamprogna:** I think you should look at this as appointing people for a job, and they ought to come across as applying for a job and perform for the job and have someone to whom they are accountable or to whom they report at some period of time. I don't think in that case it makes a whole lot of difference.

**Mr Crozier:** I did appreciate your comment, though, that some are accountable to who knows whom. That's often the case, but thanks very much.

**Mr Zamprogna:** Maybe they don't speak often enough or they're not responding to someone else.

**Mr Kormos:** I'm not sure whether Mr Crozier was going in this direction, and it's interesting because I was going to ask, if you've got effectively three municipal appointments, with two provincial appointments, why have any provincial appointments at all?

**Mr Zamprogna:** I think I made reference to that, and the reference I made was in the case of budgets. If those five are indeed responsible for the administration of the budget, the selection of the five main areas of activity etc, then they will function as five. Any group, no matter how amorphous, eventually finds a leader, eventually finds a reason for being.

If it's not to be that way, if it's to be directed politically and only politically — and you will be able to judge from your position if that is the outcome — then there's no purpose for a services board. That's why I suggested to you that the city council should have control only of the budget numbers, provided it's within the minimum requirements etc, but not any further than that.

**Mr Kormos:** The bill, of course, delegates budget-setting to the municipality. It takes it away from the police services board.

**Mr Zamprogna:** Well, let's say that in London the municipality decides that the services board should have \$41 million to spend. Perhaps they ought to stop at that point and only receive submissions from the services board to the extent that they can do it for \$40.5 million: "By the way, we intend to split it in the following manner and here's the reason why we intend to do it, and incidentally, here's the reason why we suggest to you it ought to be a different number." The city council should only have the capacity to look at the overall number;

otherwise you're absolutely right, there's no reason to have a services board. That's why I suggest the regulations ought to be drafted in a different way, and to take great care, because the regulations are in effect what will give life and vitality to this bill.

**Mr Kormos:** You know the line: "There are two things you never want to see being done: One is making sausages and the other is" — and I'll paraphrase — "making regulations."

**Mr Zamprogna:** I made a suggestion to you: Put it to the people who are most accountable for performance. I know it's a very difficult one to swallow, because heaven knows, people will say, "My God, you're putting it into the hands of the police to say themselves what they're supposed to be doing," but I'm only suggesting they prepare the draft and see what happens. It might be invigorating and exciting to have that output.

**Mr Kormos:** The other issue that's been raised persistently is adequacy. In other words, you've got the competition between adequate police services and the desire of a municipal council to control the cost of policing. You can control the cost of policing easily: Send more cops home; have fewer cops on the street. It's labour-intensive.

The police association requests that they be one of the parties entitled to request a hearing by the OCCPS, the new commission, to determine the adequacy of policing. Let's face it: That means budget at the end of the day. Do you support the proposition that a police association — that's rank-and-file cops — should be able to call upon the commission to determine whether or not a budget is adequate?

**Mr Zamprogna:** The way this is prepared so far and the way I've interpreted it — you must feel my uneasiness in how I've read this — I don't think you have much choice but to support that, because the regulations in fact do not allow for the police services board to act in, how shall I say it, a specific-body decision. For whatever reason, it seems to be driven by municipal council control or whatever. If you do that and if you play the numbers game, which I'd rather not do, and municipal council has control, then certainly the police services board can't appeal that. They're outnumbered. The chief would be foolish to appeal that. He'd be setting himself or herself up against everybody else. The only people left who could properly appeal would be the association. So, Mr Kormos, I'm afraid I would have to agree with you.

**Mr Kormos:** Don't be afraid of that.

**Mr Zamprogna:** Well, you have to realize that I'm afraid of anything that comes from a political stream.

**Mr Kormos:** I'm the least political person here.

**Mr Zamprogna:** I like you. I don't care. You're a good guy.

**Mr Kormos:** The press had just left the room when you said that.

**Mr Zamprogna:** I know. I don't mind. What I've told you is precisely how I feel. If there isn't a proper method of defining the regulations as to how that's going to be achieved, then you have no choice but to allow the association an opportunity to make an appeal.

**The Chair:** Thank you very much, sir.

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HUGH MacGINNIS

**The Chair:** Our next presentation is by the reeve of Dutton, Mr Hugh MacGinnis. Welcome, Mr MacGinnis. Excuse my ignorance, but is Dutton a township?

**Mr Hugh MacGinnis:** It's a municipality right now, but not for long. It will be a township in the near future, for the next election.

I very much appreciate the time I have been allotted to come in and talk. I truly hope your panel will listen a little bit. I think maybe you need some perspective of where the municipal world is coming from right now.

I am the reeve of Dutton. I am a member of 1520 when I work at Talbotville. I am also a past candidate for the NDP; unsuccessful, by the way.

I am not here to speak for Dutton council. I am here to speak for the seniors on fixed incomes; I am here to speak for the unwed mothers; I am here to speak for the people who are making minimum wage; I am here to speak for the people who are on workfare and welfare. I think the voice is not being heard very well for them.

In my opinion, the cost of policing is just another form of downloading on the municipalities. I believe you people are moving far too fast on some of the things you are doing. With everything we have to play with in the municipal world right now, as in restructuring, as in workfare, and everything else that is coming down the tube, I didn't even have time to read this bill. I get a stack of paper every day, and the funny thing is, it always seems to change just somewhat. We are at a point right now where we feel that if this direction is maintained, with all the downloading, at some point in time people will not be able to afford to live in rural Ontario. I see the taxes taking leaps and bounds, and they could go better than 50% up by the time we implement the stuff we have to implement in the next year or so.

It would be my request that you slow down a bit and give us a chance to catch our breath. I'm sure we'll do the best job we can, but it's very difficult. Most of us people in the municipal world are very part-time people and the next thing to volunteer work, and we just don't have time to keep up with this stuff. It's coming way, way too fast.

That's basically all I have to say. I would like some answers on how to tell the seniors on fixed incomes in the village of Dutton how they're going to pay the increases that are coming their way, and I'd really appreciate it if you fellows could tell me.

**The Chair:** Perhaps we have a few questions.

**Mr Crozier:** I'm like you. I'm without an answer on how to tell them that myself, so I won't attempt to answer that. If I were still mayor of Leamington, I'd have the same problem that you're having.

**Mr Tilson:** That hasn't stopped you before.

**Mr Crozier:** I don't recall that you've been at everything that I've given answers to.

*Interjection.*

**Mr Crozier:** That's not what you tell my friend Larry Girard.

I'm going to assume you don't have your own police force.



**Mr MacGinnis:** We have an OPP force just off the 401, outside of Dutton.

**Mr Crozier:** There's a detachment there. Do you pay for that service or are you one of the communities that are —

**Mr MacGinnis:** We're one of the communities that does not.

**Mr Crozier:** Have you any idea what it's going to cost you per household?

**Mr MacGinnis:** We've heard anything from \$150,000 to \$250,000, but nobody can give us the answer.

**Mr Crozier:** That's part of the problem. Maybe you could tell me why that's part of the problem and why you're surprised you haven't heard.

**Mr MacGinnis:** That does kind of surprise me, but it doesn't surprise me, because it seems to me that a lot of the work that comes down with the changed operations of the municipal world is that we as councils are to figure that out and implement it. Sometimes that's good and sometimes it's not, especially with the number of things that are coming our way right now.

We as municipal people have to investigate every avenue of policing, and it's pretty hard to do that when you don't know what the costing is going to be for the OPP. I'm by no means criticizing the OPP, because they do a great job. For the number of them that's out there, they do a great job and I'm very satisfied with what they do. It's just that it's a pretty tough thing to take back to my taxpayers that they have an extra burden in the policing, with all the other burdens that are being placed on them right now.

**Mr Kormos:** The reality is that many of the residents aren't going to be able to handle that type of property tax increase. Unemployment is higher than it was a year ago here in this province, and we just noted statistics that indicate that the plight of the poor has gotten worse and that the poor and working poor have not managed to escape from that dilemma.

What's interesting about this deal with charging back for OPP services is that the act specifies that the moneys received in payment for OPP services are not to be used to fund the cost of overall police services; they're to be paid into the consolidated revenue fund. They're to be treated as if they were taxes or any other source of general revenue. That's subsection (4) of what is section 19 of the act as amended.

The province has also created a non-competition scenario — and we heard about this in Ottawa, Chair — where if you don't have your own police services board, you're forced to buy your policing from the OPP. You can't buy it, for instance, from a neighbouring municipality. That's what we learned in Ottawa, isn't it, Chair? You can't buy it from a neighbouring municipality. So the government has set up a monopoly for the OPP to provide, for pay, policing services, sort of like what the post office did that put couriers out of service. Remember? That was pretty slick on their part.

Has there been no consultation with you, or others like you in similar communities, about what the impact of the downloading of the cost of Ontario provincial policing is going to be?

**Mr MacGinnis:** None. From what you're saying, if we in the municipality of Dutton decided to purchase our police services from, say, the city of St Thomas, and we're allowed to put a member or two on that board, that would be classed that we still could not do that?

**Mr Kormos:** You can form a joint board, an amalgamated board I guess it would be close to, but you can't purchase police services from other municipal police services. If you don't have your own police services board, the act indicates you've got to buy it from Queen's Park.

Let me run this past you as well, because the argument from the government is that it's only fair. Dutton and 575 other communities: A few of them have substantial populations, but the vast majority are small-town, rural Ontario, villages and towns with sometimes mere hundreds of people, in the majority of cases almost inevitably no more than a few thousand, with a few examples that can be tossed about with larger populations. The government argues that it's only fair. I suppose that would be a little more palatable or an easier pill to swallow if it weren't for all the other downloading that's coming down at the same time. That's where you talked about the request that there be a slowdown.

**Mr MacGinnis:** Yes.

**Mr Kormos:** Would you propose that the whole proposition of downloading Ontario provincial policing be deferred, perhaps kept in the bill but by amendment be deferred, and that it did not take effect for a period of a minimum of three years so that municipalities like yours can start to come to grips with the cost of the other downloading?

**Mr MacGinnis:** I think that would be an excellent idea. The fear we have in the village of Dutton is that the taxes are going to get out of reach and people won't be able to pay their taxes and live too. There's quite a difference between the price of policing in a city like London and a small village like Dutton. That is really the concern, that when the taxes do go up, people will leave their houses. They won't be able to sell their houses, because the taxes will be just too high. We've worked very hard for quite a number of years to build quite a nice community, and the biggest industry we have in Dutton is senior citizens. They would probably be the hardest hit of all groups by the increases.

**Mr Kormos:** There's also no legislative formula for how the charge is to be assessed. That is to say, there's no guarantee that it's going to be provided at cost. There's no guarantee that it's going to be based on a per-capita basis or on a kilometrage, mileage, basis in terms of miles of roads to travel. Wouldn't you surely want some legislative protection from being overcharged, firstly, and a means of appealing the charge if you dispute the charge? Surely there are going to be instances where the government says, "The cost of policing there is X number of dollars," and where you can argue, perhaps to the OCCPS, that in fact the true cost of that policing is far less than what the government insists. Wouldn't that be a fair remedy?

1510

**Mr MacGinnis:** I would think that would be a very fair remedy, with all the unanswered questions. We are in

amalgamation right now with the township, and if it were to go to policing cost by mile or kilometre, that would make it very unattractive for the village to be amalgamated with the township. We are going through with that, and we are doing it because it's what we were pretty much told we had to do or it would be done for us. It would be very convenient if we did have some of these answers before these things took place. It's kind of scary to me to walk into something with none of the answers and wonder what you're going to come up with afterwards.

**Mr Ron Johnson:** Thank you for your presentation. I know you indicated that you had some concerns about the cost of policing. As a former New Democrat candidate — I want to read you a quote. "It is our intention to implement equitable police financing, which means all Ontarians pay their fair share of policing, and right now we don't have that. We'd like to obviously do it as quickly as possible because we'd like to institute fairness and clearly the province needs the revenue." Who do you think that was?

**Mr MacGinnis:** It was probably the past Premier, Bob Rae, but if he was implementing policing at the time, with all the downloading that you fellows are doing at the same time, I'd have probably asked him if he was suicidal.

**Mr Ron Johnson:** Well, in fact, it's not Bob Rae; it's our former Sol Gen, Dave Christopherson, back in 1993 when he was going to do the same thing. This is my point. I know that you are concerned about the policing costs and you used the general downloading, as you call it, but you don't talk about the uploading. You don't talk about the fact that the municipalities won't be required to pay for education any more as well.

I think it's important that you understand the big picture, that you understand —

**Mr Kormos:** What does Don Cousens, the former Tory member for Markham, have to say about that, you and your cobra?

**Mr Ron Johnson:** Just a minute, Mr Kormos — very clearly that it's not only fair but it's equitable for all Ontarians to be treated the same way with respect to policing costs.

I have a question for you. I want to know what you would tell the people of London, what you would say to them, who are paying big bucks for policing. These people in London are paying, just like most urban centres, significant costs for policing. How do you explain the inequity to them, that the people of Dutton don't pay anything?

**Mr MacGinnis:** When I discuss things, I like to compare apples to apples, not apples to oranges. I don't know how you could compare a city the size of London, with the industry and all the conveniences that draw the extra people here, to a small community of 1,200 like Dutton, where we have no industry, other than the senior citizens, which we take a lot of pride in. I don't really know how you could compare London to Dutton. The revenue is here and it's not in Dutton; we rely on residential revenue. It has to be attractive enough to have people out living in Dutton or they live in London.

**Mr Ron Johnson:** I understand your concerns. The point I'm trying to make is that there is basically universal acceptance that policing costs are a cost that should be borne by all Ontarians in an equal fashion under the local tax base. That is the general consensus, and despite the hypocrisy that we hear around this table sometimes from our New Democrat and Liberal friends, they have said in the past the same thing, but when it comes to fruition —

**Mr Kormos:** The hypocrisy is for this member to quote previous sol gens when I can quote a current mayor of Markham, a major Tory in the province, who's prepared to take these guys on because of their cobra. Don Cousens, former member of their caucus, is prepared to take them on because of their downloading.

**The Chair:** Order. You've woken me up, Mr Kormos.

**Mr Kormos:** Thank goodness.

**The Chair:** You have one minute to go.

**Mr Ron Johnson:** I have one minute. My point being, of course, that I think most people in the province, including all three political parties, probably agree in one way or another that policing should be a shared cost by all taxpayers and all communities. It's somewhat distressing to see the hypocrisy from our NDP friends, because they in fact planned to do the same thing.

I understand your concerns. I understand the downloading concerns. You know very well that some of those concerns are currently being addressed through negotiations. We hope to find an equitable resolution for all communities, including Dutton.

**Mr MacGinnis:** I would be very glad to see that happen, and I believe it is happening, but in my mind, to make our decisions a little clearer, why don't we put the whole thing on hold until you can come out with the whole picture? It's very hard for me to go back to my residents and answer questions that I have got no answers for. I'm supposed to be the guy in Dutton who's got them, but I'm supposed to get them from you, and I'm not getting them.

**Mr Ron Johnson:** You know full well — Mr Chair, this is important — that the OPP costings are being done now.

**The Chair:** Mr Johnson, we always like to leave our guests with the last word, and that privilege was Mr MacGinnis's. I thank you very much for your attendance here today.

**Mr MacGinnis:** Thank you very much. I appreciate your time.

#### LAZARUS COMMUNITY ACTION COALITION

**The Chair:** Our next presentation is the Lazarus Community Action Coalition, Mr Mike Laliberte. Welcome. We have set aside 20 minutes for your presentation, including all questions, so I'd ask you to proceed.

**Mr Mike Laliberte:** Good afternoon. I'm a staff lawyer at Neighbourhood Legal Services, which is a poverty law clinic in London. I'm also a member of the Lazarus Community Action Coalition group. The coalition group is comprised of individuals from community agencies and labour groups. It also has members who are social assistance recipients and people who are classified as the



working poor. The group was formed approximately two years ago to respond to issues around social justice.

One function of the group is to respond to federal, provincial and municipal government initiatives that affect the London community. The group has recently made submissions to the city on the city's proposed budget and workfare plan. The group also recently put together an employment standards public workshop forum.

Our group has requested an opportunity to make submissions with respect to Bill 105 because we have serious concerns about the proposed changes to the civilian oversight system and how complaints against police are handled. I have provided the committee with written submissions that summarize our criticisms about the proposed amendments and our recommendations. I will keep my presentation brief because, from newspaper accounts, this committee has already heard these criticisms of the proposed amendments, but I believe it is important that I summarize our criticisms so that the committee again hears that more individuals in the community have serious problems with the proposed amendments.

One goal of the amendments was to enhance the credibility of the system. This goal is not being met. When this committee hears from numerous individuals and groups that the amendments are a step backwards and place the credibility of the civilian oversight system in doubt, this committee must realize that the amendments should not become legislation.

Police in our society play an important role. Because of their unique role they are given wide-ranging powers. Police have a very difficult job and on most occasions they perform their functions admirably, but there are instances where there is police misconduct and abuse of power. Because of the wide-ranging powers police officers have, it was agreed that there must be checks and balances in the system. One of these checks and balances was to have adequate independent civilian oversight to monitor police, prevent and correct abuses of power and hold police accountable for excessive use of force and other misconduct. The proposed amendments are dangerous because they gut this important check and balance.

Institutions in our society that have a great deal of power need to have independent oversight. The police is such an institution that needs to have adequate civilian independent oversight. The problem of allowing an institution with important powers to police themselves has recently been showcased by the military in the Somalia affair.

1520

The Lazarus group agrees that it would be beneficial to simplify the police oversight process, but the simplification of the police oversight process cannot and should not be done at the expense of independent civilian review of police conduct. That is what these amendments do. In essence, these amendments allow the police to police themselves.

Our submission only deals with the issue of the civilian oversight system. Our silence with respect to the other amendments should not be viewed as our approval of the other amendments.

With respect to the proposed amendments to the civilian oversight system, it is our belief that the amendments place too much power in the hands of a police chief regarding complaints. The amendments place a police chief in an untenable situation. On one hand they are viewed by the public as the head of their police department and its spokesperson. A police chief is also responsible for maintaining the morale of the police department. It is understandable why a police chief would want to support his or her police officers and protect the image of his or her police force.

However, under the amendments the police chief is responsible for all public complaints. This role appears to conflict with the police chief's other functions. This raises the serious issue of perceived bias or actual bias in the proposed system. Perceived or actual bias contradicts the principles of natural justice and calls into question the fairness of the system.

Under the amendments, the police chief has sweeping discretionary powers to decide when complaints are frivolous and not worth investigating at all. A police chief can eliminate a complaint by deciding that it is frivolous, unsubstantiated, not serious or a matter of force policies rather than officer misconduct. It is our position that these powers are too broad and should not be in the hands of the police chief.

Solicitor General Bob Runciman was recently quoted on this issue saying: "Discipline is a management process. I think a manager should have the right to deal with his or her employees." Our group does not believe we are dealing with a normal employer-employee relationship, and therefore the normal rules cannot apply. As stated previously, we are dealing with police, who have extraordinary powers and whose actions affect citizens directly and the community, and therefore a strong independent civilian oversight procedure needs to be in place.

Presently, civilians can access the independent complaints office from the start. The proposed changes back-end the civilian oversight involvement. It is only guaranteed at the end of all complaints and the amount of civilian oversight at this stage is weakened. For example, if there's a disagreement with a police chief's decision that no action is warranted on a complaint, the proposed changes allow a complainant to go to the Ontario Civilian Commission on Police Services, but the commission will have no authority to investigate, which presently exists. The new commission can only review the record.

It is our position that these and other changes result in a loss of adequate independent review of complaints against police officers.

Another problem with the amendments is that currently anyone can file a complaint as long as the commission can locate the person who was directly affected by the misconduct. The amendments give the police chief the power to not deal with complaints filed by people who are not directly affected by the conduct or policy in question. This is a step backwards. The current system recognizes that some individuals fear filing a complaint for fear of reprisal. The proposed amendments fail to take this into account.

We do not agree with changes to the informal resolution of complaints. Presently, a complainant can consent

to informal resolution. Again the proposed changes put too much power in the hands of the police chief, who can take steps on his or her own initiative to attempt an informal resolution of the complaint.

Presently, some hearings are done by an independent board of inquiry. The proposed changes outline that hearings will be conducted by a designate of the police chief. In our view, this is a problem of actual or perceived bias and again calls into question the credibility of the system.

Lazarus group's recommendations are as follows:

That there continue to be effective, independent civilian oversight from the beginning of the process. The current level of independent civilian oversight should at least be maintained. In our view, the best option is to have police complaints reviewed and investigated by a civilian commission that is completely independent of the police. This is the best alternative because there would be no issues of bias or perceived bias when a complaint is investigated.

In the alternative, if the police chief maintains the power to investigate complaints, the Ontario civilian commission should maintain the powers held by the current review bodies. Specifically, there need to be broad powers of investigation given to the civilian commission, even where the police chief decides that no action is warranted with respect to a complaint.

The powers of the police chief under the amendments need to be reviewed and limited.

Amendments should allow third-party complaints, which would enable persons who witness police misconduct to lodge a complaint on behalf of the victim. This would deal with the issue of fear of reprisal.

Informal resolutions should not be at the discretion of the police chiefs but only where the complainant advises that it is acceptable to him or her.

Finally, hearings required under the Polices Services Act should be totally independent of the police. The police chief should not be allowed to appoint hearing officers.

Without amendments to the proposed legislation, it is our belief that the credibility of the system will be lost. Although the police may have more confidence in the system, the community may not view the system as independent and fair.

**Mr Kormos:** Interestingly, as I pointed out earlier, you're in a not dissimilar position, with respect to the Police Association of Ontario, when it speaks of the need for independent adjudication for discipline and complains about the great powers that the chiefs of police have acquired under this bill.

To be fair, a determination of a frivolous complaint can be appealed by the complainant to the commission within a 30-day time frame. That of course puts the onus on the complainant to engage process and prepare documentation and so on.

One of the things the bill does is prohibit third-party complaints. That's not to say, as Mr Carr would be so quick to point out, that a lawyer or an advocate can't assist a complainant. What it means is that if you see what you believe to be misconduct taking place on the street, you cannot of your own accord complain about the

conduct of, in that case, that police officer. You are disentitled, by virtue of the bill, to complain about that. Do you agree with that, or would you want the bill to include third-party complaint capacity?

**Mr Laliberte:** Yes, that's one of our recommendations. I think you put forward the problem that exists, where a third party witnesses abuse by a police officer and cannot file a complaint with respect to what he's witnessed.

With respect to your first comment, my understanding and from others who have reviewed this is that, yes, a complainant has a right, when a finding of a frivolous complaint is made, to request a review by the Ontario civilian commission, but that body no longer has the power to investigate, which in the past has proved important.

**Mr Kormos:** Quite right. The government would interpret the powers of the commission far more liberally than the statute would indicate they are. The police would suggest, or some at least would suggest, that police investigative capacity is such that you don't need civilian investigation.

Would that be at all tolerable if an overview were returned to the legislation? Right now, you see, the commission doesn't even supervise or get reports back on the process of the investigation. Would you feel somewhat comforted if there were responsibility on the part of the investigative force to report to the commission on, let's say, a 30-day or an interim basis the progress that's being made and the type of stuff that's being done in the course of an investigation?

**Mr Laliberte:** Yes, I believe that would be a step forward. It would be an improvement of what's before us now. But as I say, our recommendation would want the improvements or amendments to go even further.

1530

**Mr Kormos:** What do you think is driving this legislation? Why would this government want to dismantle civilian oversight of police in this province in the way it's done? Why would they want to do that rather than improve upon it?

**Mr Laliberte:** In my opinion, there are probably a number of reasons. One of them, I believe, is cost-cutting. Another is that there may have been a belief out there that there is too much civilian involvement in the present system. I agree that the system is very complicated right now and needs to be improved, but what they're doing, in our opinion, is taking out the most important aspects of it that would show its fairness and independence.

A number of reasons: cost-cutting; the myth that there's too much involvement right now and the police are not given a fair shake; and that the system is too complicated. We agree that the system is too complicated, but the amendments are a step backwards.

**Mr Kormos:** The Solicitor General has indicated a cost saving of \$3 million a year for the abolition of the current oversight bodies, but he won't commit himself to returning that \$3 million to policing, and he won't tell us — the chiefs of police tell us they anticipate an increased cost because of their new role in oversight and management of investigations and hearings. Just an observation on my part.



**Mr Tilson:** The issue of a civilian oversight commission that you're suggesting — you're right. One of the concerns the government has had is that there has been nothing but criticism of the system we have now, that it's too complicated, too cumbersome, too expensive, too lengthy etc. In fact there's a chart that all members have that shows —

**Mr Laliberte:** Yes, I've seen that chart.

**Mr Tilson:** If you've seen the chart, there are arrows going all over the place, and the average person would be boggled by it. How do you foresee this independent civilian commission that you speak of — and you're not the only one who has spoken of that. As you're probably aware, a number of people have, particularly in Toronto. How do you foresee that being implemented? Who will appoint them? What will the cost be not only to set it up but to implement it, to make sure it's not the very cumbersome process we have now? Has your organization gone into that type of thinking?

**Mr Laliberte:** No, we haven't gone into details of coming up with our own system and how we believe it would work from the beginning to the end. But what we're saying is that the proposed amendments should not go through; that it has to go back to the drawing board and at least maintain what's there for independent civilian oversight in the system that exists now.

**Mr Tilson:** Let's talk about that, because I want to make sure I understand where you stand on the independence issue. One of the criticisms has been that the police, the chief of police in particular, won't be independent, that he or she will be sticking up for his or her brothers and sisters with complaints, whether they be frivolous and vexatious or perhaps more serious. The question is, who's going to appoint this commission and will that commission be independent? Will you ever achieve the independence? Is it a Utopian dream to achieve that independence?

**Mr Laliberte:** The problem with the current amendments is —

**Mr Tilson:** No, I don't want to talk about the current amendments. I'm trying to talk about —

**Mr Laliberte:** This is what you want to pass.

**Mr Tilson:** No, that's not true, sir. I'm trying to appreciate what you're saying. You're proposing an independent civilian commission and I want to know what you mean by that. I want to know how much that's going to cost, because I suspect it's going to cost a lot of money, more money than the taxpayer of this province, than the public of this province can sustain.

**Mr Laliberte:** What is the cost of fairness?

**Mr Tilson:** Just let me finish for a minute. It would be ideal to have that type of commission, like it would be for every aspect of our society, but you've got to remember that the province is broke. It's gone broke. The problem is that in all our cutbacks, we're not looking at the debt; we're looking at the deficit. I need to have people such as you — and I respect you for coming forward and offering suggestions, but to do that you can't just blithely say, "We're going to have an independent police commission." You've got to have some clue as to what that's going to cost and where the people are going to come from to do it.

**Mr Laliberte:** I think our submission has pointed out that the major problem with the proposed amendments is that you have the police chief handling all complaints. That is a problem with perception of institutional bias.

**Mr Tilson:** I understand that, sir. I'm trying to visualize —

**Mr Laliberte:** If you're going to set up the system as our alternative recommendation is, you need to have a body that has certain powers to review the police chief's decisions, that has real powers, that has the power to investigate.

**The Chair:** Thank you, Mr Tilson, our time is up. Mr Ramsay — I mean Mr Crozier.

**Mr Crozier:** Thank you, Chair. I'm not nearly as good-looking as he is.

Sir, welcome. In your experience, in your daily responsibility for the group you work with as a lawyer, have you had some experience with complaints regarding police services?

**Mr Laliberte:** Our office doesn't deal with police complaints, but we do refer people to the appropriate bodies they should contact.

**Mr Crozier:** Okay. My question, had you dealt with those, would have been about what kind of reluctance — and you may still have some experience with this — there is on behalf of complainants to complain to the service with which they have a problem.

**Mr Laliberte:** It's just the reality and perception that police have a lot of power and that to complain against them is only going to make your situation worse. To come forward takes a lot of guts. The problem we see is that to come forward, in all circumstances, to another police officer doesn't seem fair.

**Mr Crozier:** In a general way — I know you were getting into the question of civilian oversight more deeply. Police services probably have more contact with the public than most other services provided by municipalities or governments. Police officers are out on the road every day, attending at schools every day, even more so than local, municipally elected officials, because they generally have other jobs but these folks are out on the street all the time. Therefore, would you comment on whether you think, when it comes to a perceived problem with police services, that the burden of proof may be higher on them, that there's reason they should be found responsible for some misdoing or not, simply because of their contact, because of the area they work in?

**Mr Laliberte:** Are you talking about police officers?

**Mr Crozier:** About police officers, yes. My point is that the reason you feel there should be this high degree of civilian participation in the area of police complaints is because the burden of proof may be higher on police officers.

**Mr Laliberte:** That is one of the reasons, and the other reason is that the police have such extraordinary powers in our society. They have powers to take away your liberty; they have powers to detain you. When we're dealing with institutions which have those types of decisions and are held in high esteem by the community, for a person to come forward to say there has been misconduct of one of its members, at first instance it's very hard for people to lend credibility to their complaint.

**Mr Crozier:** The police officers, the police chiefs, the police services boards and all of us are wrestling with that question of to what degree there should be this kind of oversight, so I appreciate your comments.

**The Chair:** Thank you, sir, for assisting us in our deliberations here today. We appreciate it.

I need the guidance of the committee. Due to a cancellation, our next scheduled appointment is for 4:40, one hour from now, and we cannot confirm, of course, that she will attend. I won't go into detail. There are some

alternatives. What I'm going to suggest to this committee is that we authorize the clerk to remain and greet her and authorize him to offer to pay her fees for travelling to Toronto and she can appear at one of our dates later. Do I hear any objection to proceeding in that manner?

There being none, we are going to adjourn this sitting to April 7, 1997, at 10 am at Toronto, the Parliament Building.

*The committee adjourned at 1542.*









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Mr Gary Carr (Oakville South / -Sud PC)

#### **Also taking part / Autres participants et participantes:**

Mrs Marion Boyd (London Centre / -Centre ND)

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## **Legislative Assembly of Ontario**

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# **Official Report of Debates (Hansard)**

**Monday 7 April 1997**

# **Journal des débats (Hansard)**

**Lundi 7 avril 1997**

## **Standing committee on administration of justice**

**Fire Protection and  
Prevention Act, 1996**

## **Comité permanent de l'administration de la justice**

**Loi de 1996 sur la prévention  
et la protection contre l'incendie**



**Chair: Gerry Martiniuk  
Clerk: Douglas Arnott**

**Président : Gerry Martiniuk  
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LEGISLATIVE ASSEMBLY OF ONTARIO  
**STANDING COMMITTEE ON  
 ADMINISTRATION OF JUSTICE**

Monday 7 April 1997

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
**COMITÉ PERMANENT DE  
 L'ADMINISTRATION DE LA JUSTICE**

Lundi 7 avril 1997

*The committee met at 1004 in room 228.*

**FIRE PROTECTION AND  
 PREVENTION ACT, 1996**

**LOI DE 1996 SUR LA PRÉVENTION  
 ET LA PROTECTION CONTRE L'INCENDIE**

Consideration of Bill 84, An Act to promote Fire Prevention and Public Safety in Ontario and to amend and repeal certain other Acts relating to Fire Services / Projet de loi 84, Loi visant à promouvoir la prévention des incendies et la sécurité publique en Ontario et modifiant ou abrogeant certaines autres lois relatives aux services de lutte contre les incendies.

**The Chair (Mr Gerry Martiniuk):** Good morning, ladies and gentlemen and members of the committee. I'll call the meeting to order. This is a hearing of the standing committee on administration of justice consideration of Bill 84.

I just point out, because they're all bundled together, that you should have received on your desk this morning written submissions by CUPE Local 79; fire chief Alan Speed of the city of North York Fire Department; fire chief Ivan Jackson, Village of Hastings Fire Department; Mr Norm Mitts; Ms Judy Taylor; the borough of East York; and fire chief Thomas Powell, city of Scarborough. You should have those. If you do not, speak to the clerk.

We will start this morning with a one-hour statement by the minister. I welcome the Honourable Bob Runciman, Solicitor General for Ontario, and also Mr Bernie Moyle, the fire marshal. We have one hour set aside for the minister's statement and the statements from each of the parties, so it works out to 15 minutes apiece. Without further introduction I'll pass the meeting over to —

**Mr Peter Kormos (Welland-Thorold):** Chair, if I may, I was going to bellow out "point of order," but I realize that may not be necessary here, as compared to the chamber.

I moved several weeks ago in this committee, and the motion was adopted by the committee, that the hearings be held in the Amethyst Room. The committee approved that. I don't believe there was any dissent in that regard. I spoke with the clerk, who explained that committee rooms are assigned on a rotating basis, short of a committee which necessarily needs translation services, in which case it gets priority. I asked her how we give effect to the committee's request to be in the Amethyst Room, clearly for the purpose of televising these so that people have access to it across the province. She explained that it was incumbent upon the Chair to seek a transfer of rooms with the Chair of the committee sitting in the Amethyst. I wonder if that has been done, and if it hasn't, no quarrel.

**The Chair:** Mr Kormos, there was instruction from this committee, and it was unanimous, for me to proceed to determine whether or not the hearings could be held there. The clerk did the investigation and determined that the room had already been booked by the standing committee on finance and economic affairs for its consideration of the Assessment Act. I spoke personally to the finance committee Chair requesting that he move to permit us to use that room and he did not think that wise. He felt his bill was also very important. That discussion took place last week. That's why we're here.

**Mr David Ramsay (Timiskaming):** On another point of order, Chair: I was wondering if there was anything the committee clerk and the Chair could do to accommodate, as you see, the overwhelming interest in this bill. Is it possible to open up the adjoining committee room for the spillover, for the people here? Is there any way we could accommodate people so they could sit and possibly hear and maybe even watch the proceedings here in the justice committee?

**The Chair:** I'll have the clerk look into it. Unfortunately the audio will probably be the problem. However, possibly the clerk can investigate that while the presentation is being made to determine whether we can open up those rooms for seating purposes.

**Mr Kormos:** I've got some seating to my left. Mr Bisson won't be here this morning.

**The Chair:** That is members' seating, I understand, Mr Kormos.

**Mr Ramsay:** There's one seat, anyway.

**Mr Kormos:** I was just trying to accommodate.

**The Chair:** It is unfortunate, and I apologize to those who are standing.

**STATEMENT BY THE MINISTER  
 AND RESPONSES**

**Hon Robert W. Runciman (Solicitor General and Minister of Correctional Services):** Thank you, Mr Chairman and members of the committee and those of you who are able to get into the room and those of you who can hear this outside in the hallway. It is regrettable that we don't have the room for all of you to be accommodated. I want to welcome everyone who has taken the time to be here today and come to the public hearings concerning Bill 84, the proposed Fire Protection and Prevention Act.

At the outset I want to emphasize that the government will give serious consideration to all comments and suggestions received during this committee process. Personally, I am looking forward to listening to the input of witnesses and I'm eager to work with everyone



involved to ensure that this legislation achieves what I believe is our shared goal: to help municipalities provide all Ontarians with the best possible level of protection from fire in the most efficient way.

As I've said before, Bill 84 provides a whole new framework for fire protection in Ontario. The proposed legislation makes Ontario a fire safety leader in Canada, and it's long overdue.

#### 1010

The proposed act consolidates nine separate statutes: the Fire Departments Act; the Fire Marshals Act; the Hotel Fire Safety Act; the Firefighters Protection Act, 1993; the Lightning Rods Act; the Egress from Public Buildings Act; the Firefighters Exemption Act; the Accidental Fires Act; and the Fire Accidents Act.

Some of these acts are so old, they're irrelevant. For example, the outdated Egress from Public Buildings Act deals with specific issues already covered in the fire code. That means the egress act has been irrelevant since 1980, when the fire code was first introduced.

For the first time in nearly 50 years, after previous governments examined the issue but took no action, the issue of fire services is finally being dealt with, I believe, demonstrating this government's fundamental commitment to fire safety.

Consultation on Ontario fire services has been occurring for almost 30 years. The most recent round of consultations began in 1989, when the Fire Services Review Committee was established. This committee included representatives of the Ontario Professional Fire Fighters Association, the Provincial Federation of Ontario Fire Fighters, the Ontario Association of Fire Chiefs, the Association of Municipalities of Ontario and the Fire Fighters Association of Ontario.

The committee met a number of times in 1990 and again in 1991 and a staff report on the committee's work was distributed for comment in 1993. Further consultations began in 1994, led by Mr Bernie Moyle, the Ontario fire marshal, who has joined us today and is sitting to my left. The fire marshal submitted a detailed report on legislative reforms in 1995 which stakeholders had an opportunity to comment on. In addition, the Who Does What emergency services panel concurred with the government's direction and confirmed that our reforms are sound.

Finally, I should add that there have been a number of meetings between the fire unions and myself — I've been involved in a few of them — my own staff and representatives of the ministry and the fire marshal on Bill 84.

Since Bill 84 was first introduced, there has been a wide range of comments and opinions from various stakeholders. I am glad to see that all of you here today and all those who have commented on the bill over the past few months clearly recognize the importance of fire safety for all residents of this province.

As I've emphasized in the past, Bill 84 will enhance public safety by focusing on fire prevention. Under Bill 84, Ontario will be the first province to make fire prevention and public education mandatory, which will help prevent fires from occurring.

Data gathered by the office of the fire marshal indicate that most fire deaths could have been avoided through

greater use of fire prevention and public education programs. In fact, that's precisely what 20 coroners' inquests and over 60 inquest recommendations have called for.

In the past 25 years alone, fire fatalities have dropped 60%. This can be largely attributed to an increase in prevention and education, such as the distribution of smoke alarms and other prevention tools. By focusing on fire prevention and public education, Bill 84 can and will save more lives. In addition, the bill encourages automatic aid agreements which can improve response times in critical situations, meaning the closest fire service would respond to a fire regardless of municipal boundaries. When lives are at stake, this is only common sense.

Many people are surprised to learn that there is currently no requirement for municipalities to provide a fire service. I want to emphasize this point: Prior to Bill 84 there was no legislation to address levels of fire service or even a legislated requirement for a municipality to provide fire protection. Bill 84 corrects this glaring weakness in the current legislation by requiring every municipality to provide an appropriate level of fire prevention and fire protection to its residents.

This guarantee will be backed up by giving the Ontario fire marshal new powers to review municipal fire services. If the fire marshal believes there is a serious threat to public safety in a municipality, he, or perhaps in the future she, can conduct a review and make recommendations to the local municipal council. If the threat to public safety is not addressed, the Solicitor General of the day can, through cabinet, regulate the level of fire service to be provided in that municipality.

Our goal in creating this bill was to set the foundation for the safest jurisdiction in North America by ensuring that fire prevention and fire safety education are balanced with fire suppression capabilities that meet the needs of every corner of this province.

Over the past few months the government has listened to the concerns of municipalities, fire chiefs, firefighters and their unions about Bill 84, and we are still listening, because we want this bill to be the best fire services legislation possible. The message of the government to firefighters is clear: We want your input and we are prepared to listen to your constructive suggestions for improving Bill 84.

In saying that, I would like to take this opportunity to recognize the enormous contribution of professional firefighters in the 32 full-time and 120 composite fire departments across the province. Ontario's professional firefighters are among the finest in the country, demonstrating their commitment and dedication to fire protection and prevention for over 80 years. Firefighters play a huge role in our communities, ensuring the safety of the public right across this province. They clearly deserve our heartfelt thanks for all their hard work and dedication.

I'd like to take a few minutes to address some of the issues that have been raised by firefighters, their unions and others since the introduction of Bill 84 and provide the committee with an indication of some of the areas of Bill 84 that we intend to amend as a result of that input.

For instance, we have heard that there is a need to examine the definitions of several terms, such as the

definition of a fire chief and the definition of a trade union. I want to indicate that we will look at those areas of the bill with a view to making improvements that clarify those terms.

Similarly, we have heard concerns about making sure that Bill 84 is consistent with the provisions of the Labour Relations Act in a number of areas and reflects fair labour practices. Of course we take these matters very seriously and we are looking at improvements to those parts of Bill 84 as well.

Another thing we need to make clear is that subsection 52(2) of Bill 84 was not — and I'll capitalize that — intended to interfere with firefighters' pension benefits, and we will be making an amendment to clarify that issue.

Let me repeat that we are prepared to listen to these and other concerns about this bill, keeping in mind that our objective is to improve and clarify the legislation.

1020

In the proposed legislation the definition of firefighter has been expanded to recognize the possibility that municipalities may wish to hire salaried employees on a part-time basis. Currently, a municipality is restricted to hiring full-time firefighters or recruiting volunteers. Generally, volunteers receive some form of compensation or honorarium for responding to an emergency, but are not paid a salary. Bill 84 provides municipalities with more flexibility as to how they deploy resources.

I also want to mention that currently most Ontario firefighters — 18,000 out of 26,000 — are volunteers who perform their duties capably and admirably.

The use of paid part-time firefighters can lead to an improvement in public safety. I'll give you an example: Under Bill 84 a municipality could hire someone for 24 hours a week to conduct a fire safety program. Many municipalities would benefit from an ongoing public education program, but are not large enough to occupy an employee on a full-time basis.

My priority as Solicitor General of Ontario is public safety, and that includes safety from death, serious injury and losses caused by fire. It's a role that I take very seriously, and I know that municipalities recognize their own role when it comes to public safety.

That's why I'm confident that all firefighters, part-time or full-time, will continue to receive appropriate training. I want to stress that safe and effective performance does not depend on a firefighter being full- or part-time. In fact, the Occupational Health and Safety Act requires that all workers be sufficiently trained to carry out their duties. It makes no distinction between full-time staff and part-time workers.

In practice, it may even be easier for municipalities to ensure part-time firefighters are adequately trained, because they can be directed to take certain training as a condition of employment. Training may be much more easily accommodated as part of a formalized working relationship between the employer and employee.

On another matter, Bill 84 will establish the Fire Marshal's Public Fire Safety Council to enhance private sector participation in delivering fire safety education. It will clarify the role of the province and the municipalities in delivering fire services.

As it has done since 1993, the Fire Marshal's Public Fire Safety Council will continue to play a key role in promoting partnerships with community groups and the private sector to raise awareness and better educate the public about fire safety. The public fire safety council will provide materials to all municipalities that require assistance.

Most importantly, the changes will improve public safety by ensuring that the public receives a continual and consistent message, making people aware of fire safety hazards, emphasizing individual responsibility and providing appropriate information to protect Ontarians from fire. While we're on the subject of partnerships with the private sector, I must clarify that the bill neither encourages nor discourages fire privatization in Ontario. That is a decision that must be made locally according to local needs and conditions. This option is available in all other provinces in Canada.

You may be interested to know that although no Ontario municipality has contracted with a private company for fire protection in the past, they have always had this option under the Municipal Act.

Bill 84 will bring common sense to the way fire services are organized on the ground in the municipalities in the province, so that fire safety is delivered in the most economical and practical way. To enhance these efforts, the province will support the best possible level of safety from fire at the lowest possible cost.

The fire marshal's office will work closely with all municipalities, especially smaller municipalities, to provide them with the materials they need to implement solid fire protection and prevention programs.

I must again stress that while this bill allows municipalities to determine what will best suit their own needs, the province will not allow any action which could present a serious threat to public safety. That said, we are confident that municipalities will make the right choices and decisions for providing fire services and fire safety in their own communities.

Ontarians living in isolated rural and northern areas will be happy to hear that this legislation will improve public safety for all Ontario municipalities, including isolated rural and northern communities.

For the first time, it provides unincorporated communities in the north with the authority they need for effective fire prevention and fire safety education.

In those areas, the traditional focus of fire suppression has not, and will not, provide the necessary level of public safety. Bill 84 gives them the means to take advantage of technology and place more emphasis on early warning systems and escape plans through effective prevention and public education.

Earlier, I spoke briefly about another important issue dealt with in the bill: automatic aid. This is the concept of allowing the closest fire station to respond to an emergency, regardless of municipal borders.

Currently, some cities have their respective fire stations and equipment immediately on a municipal border. If a fire occurred in a specific area of one city, a neighbouring fire department may be able to respond faster, but because of the way things are currently structured, they



cannot. I think we would all agree that in many respects this is nonsensical and dangerous.

When lives are at stake, it shouldn't matter which fire department responds, and Bill 84 will make it easier for municipalities to arrange automatic aid efforts with their neighbours. It's only common sense that whoever can get there faster should respond, and we expect and are confident that municipalities will work together to improve public safety.

As a matter of fact, we are already starting to see positive examples of neighbouring municipalities working together on this front. Approximately 15 fire departments in Essex county have recently finalized an automatic aid agreement that could serve as a model for the province as a whole.

We are confident that municipalities, fire departments and professional firefighters will continue to work together to improve the safety of all Ontarians.

Of course, public safety remains our top priority. If we find problems in the future, we reserve the right and are prepared to act to ensure cooperation with neighbouring fire departments. I want to emphasize that any changes made by this legislation will be fair and that public safety will take precedence.

I'd now like to address some of the labour relations aspects of Bill 84.

In any other sector, public or private, managers are not members of the local union. Every other item of labour legislation achieves a balance between management and employees, which serves the interests of both parties. Current legislation states that only the fire chief and deputy chief of a fire department are excluded from representation by the local firefighters union.

For example, the city of Toronto has only two employees classified as managers to oversee approximately 1,300 firefighters. That just doesn't make sense. In today's environment, it is not realistic to limit the management of large, complex fire departments to only two people. We need to ensure that each fire department has a competent team of individuals who perform management functions, classified as managers, to act in the best interests of the public they serve.

Bill 84 includes a formula to automatically exclude a number of managers in a fire department depending on the total number of staff. For example, fire departments with less than 25 staff will have two managers, staff of 25 to 150 will have three managers, 150 to 300 staff will have four managers, and five managers will be assigned in fire departments which have over 300 staff.

Disputes regarding additional exclusions would be referred to the Labour Relations Board, which would render a decision based on the functions of the position, as they have done for many years in other sectors.

1030

The new legislation will ensure that any member of a fire department who functions as a manager will be a manager. I should also add that based on discussions I've had and input I know members of this committee have had, we are considering building in suitable protections for those firefighters who do not wish to take a management position so that they are so-called red-circled and do

not lose their salaries because of that decision. We are recognizing the concern and attempting to address it.

I'd like to close today by reiterating this government's commitment to public safety, the key to the Fire Protection and Prevention Act. This legislation renews our commitment to preventing fires and improving fire safety across Ontario.

I am confident and expect that all members of the fire service, including firefighters and other fire service providers, will work with this government to create a piece of legislation that will make us a leader in Canada by ensuring safer communities for all Ontarians.

Safety is the bottom line. My goal, the government's goal, and I'm sure this committee's goal, is to ensure that the Fire Protection and Prevention Act creates a safer Ontario for everyone. I feel confident that your deliberations over the next few weeks will help us achieve that shared goal.

**The Chair:** Thank you, Minister. We have allotted 15 minutes per caucus, and we'll start off with Mr Ramsay.

**Mr Ramsay:** I'd like to start this morning and say to the minister that I hope he really does listen to the presentations we will hear over the next two weeks, both here in Toronto and across the province.

I'm pleased to hear that he has just said that his bottom line is fire safety, because I think that's very important and I think that's why we're all very concerned here. Why I'm surprised, though, is that I really haven't heard a concern in Ontario about fire safety. I think we're doing a pretty good job in this province. We have a reputation in Ontario as having some of the best firefighting services in the world. We have a very high standard in this province. To me it brings forth the old adage that if it ain't broke —

**Mr David Tilson (Dufferin-Peel):** A point of order, Mr Chairman: I hear bells ringing, and I'm wondering whether members must return to the House.

**The Chair:** I believe it's a quorum call, but I'm not certain.

**Mr Tilson:** I don't know. Well, it has stopped. It just seems to me that may happen from time to time, when we're in Toronto at least. Mr Ramsay, I apologize for interrupting you; it seems we're obliged to return.

**Mr Kormos:** Mr Chair, if I may, the member is quite right. It is as likely to happen outside of Toronto as here. If outside of Toronto, committee members aren't going to be able to pack up and scurry off. We've got a whole lot of people eager to see these hearings proceed. I don't think there should be any interruption on the basis of bells — a fire alarm perhaps, but certainly not on the basis of mere bells.

**The Chair:** It's a hypothetical situation at this moment. I'm sorry for the interruption, Mr Ramsay. Please proceed.

**Mr Ramsay:** Thank you, Chair. I would hope that all caucuses, as we have in the opposition, have organized themselves to carry on in both places today.

Getting back to my point that there really isn't a problem, this is the real concern I have with this bill, in that what's going on here in fact is another bullying piece of legislation. Bill 84 is basically one of the sons of Bill 26, which is, I would say, the mother of all bullying bills.



This is an attack on public sector services, in this case public sector public safety services that the people of Ontario pay for through their taxes and require for their public safety in all municipalities across this province.

We are very proud of the public service that gives us fire protection in Ontario, and this bill is designed to destroy that. It's going to destroy that because it's going to break the agreements that firefighters have negotiated with their fire departments over the years that have devised a teamwork approach in how to deal with fire safety and fire suppression.

This bill interferes with the collective bargaining process. It's anti-labour. It's a continuation of the anti-labour legislation this government has brought forward since it was first elected back in June 1995. What it really boils down to in the end is opening the door to getting rid of the high-quality services we have established in this province and are proud of, and inviting in private companies, as this minister is inviting in other areas such as jail security, to provide public safety services in this province.

That is wrong. It is wrong because we've seen the American experience where public safety has been put at risk. This is not a hypothetical situation here. We have seen concrete examples in the United States where the privatization of emergency services has proven to be inefficient and has put lives at risk. That's what this is all about and this is why we're concerned about this.

Premier Harris, as he was campaigning as leader of the third party going into the last election, had promised the firefighters that he would not bring any firefighting legislation before the Ontario Legislature until he sat down with the firefighting organizations and consulted with them as to how these changes should be brought forward. He didn't do that, and I think we're going to hear about that as the presentations come forward.

Now, Minister, there are probably some good areas of this bill, and what I would suggest, as I have suggested to you before, is that we could get on in a couple of weeks and pass this bill if we delete part IX. That would give you some time to sit down with the firefighting organizations and work out how the labour relations aspects of this bill could really be put forward in a way that we could get some agreement, could keep the morale of firefighters across this province high, being encouraged to do their job.

Right now, what you've done with this bill is a slap in the face, and the major area where this is a slap in the face to firefighters in this province is that one little line in there that says that firefighters will not have the right to strike. You know, that is completely unnecessary, because we have never lost one minute of firefighting protection in this province from the men and women who risk their lives on a daily basis for all of us in Ontario because of any labour relations dispute. They have never done that, and they've never done that because that is part of their code of being a firefighter. They have dedicated themselves to public safety; that is the very essence of their job. They are committed to that and they've never broken that commitment to the people of Ontario.

To put in a piece of legislation a sentence that denies their right to strike is a slap in the face of firefighting men and women across this province. It's part of the essence of who they are and the lives they live that they would never, ever do that. You've got to pull that out and get back to that trust relationship that has always been there and has never been breached.

That's the point. If you could cite one problem where a fire department refused to go out and just let a fire burn, let a house go down — but you can't do that, because that's never been documented in this province. They would never do it and they have, through their firefighting organizations, sworn never to do that. It's more than an unwritten code with them; it is part of the constitution of their firefighting organizations. I don't know if you appreciate how far you've gone in demoralizing firefighters across this province by that one aspect of the bill.

1040

I want to talk a little more about this privatization and getting right down to the detail of what this is all about and how this can have an effect on fire safety. Minister, as I'm sure you know and are aware of through your briefings, response time is the key element in fire suppression. The most important aspect of getting a fire extinguished is the response time of the fire department to the site of where the fire is taking place.

As the minister probably knows, a fire doubles in size and intensity with each passing minute, so by the time a fire has burned for six minutes, it is now 64 times the size of when it was started. Flashover happens at eight to 10 minutes, and at this point, the chance of death in a fire goes up 900%. After 12 minutes, the chance of a successful rescue in a fire falls to 46%. After 15 minutes, the odds are only 5.5%.

Coroners' juries routinely identify response time as a key factor in saving lives. Studies show that response times of five minutes or less are almost impossible unless firefighters are in the firehall, ready to go at all times. This gets to the crux of the matter. Because of all the downloading pressures of the Harris government on our municipalities, this bill is sort of a sop to the municipalities, to say, "We know firefighting's expensive and we're going to give you the ability to totally rearrange how you organize your fire departments so you can save some money."

None of us likes to pay taxes, but we know in our heart of hearts that there are certain aspects of government administration that are absolutely required by the people of Ontario. In any area of public safety and security, I know the people of Ontario are willing to pay their taxes to make sure their homes and lives are secure. Fire suppression is one of those services that I would never want to shortchange on. I would never want to dilute the services that the people of Ontario get when it comes to public service.

Maybe we could look at other government services and maybe we could save a little bit here and there by working out some different arrangements, but when it comes to public safety and security, there is no discounting how we organize those services. As far as I am concerned, we've got to keep to the highest standard.



Yes, maybe we're not going to be able to run some of these services on the cheap, but I don't want to and I don't think that's what the people of Ontario want to have.

If we start to have fire departments now that are undermanned, where we're not going to be calling the people to the fire until the emergency call has come into the fire department; where we're going to be allowing part-time people who might have other jobs, who want to be firefighters on a part-time basis; and in our major cities, where there are fires going on 24 hours a day, to be calling those people in who will be unable to keep up to speed with all the different requirements of being a first-rate professional firefighter because they can't do it full-time; that is not the way to run a first-rate public sector, public safety and security service. That is absolutely wrong.

While I know there are tremendous pressures and I think we can do a better job in government and find better efficiencies and make cost-effective services — maybe there are some things in government we should get out of and let other people provide services if they're required — when it comes to basic public safety and security services, this is where we cannot shortchange the people of Ontario.

Bill 84 does that. It is starting to cut corners now in government services where the public safety is at risk. That's why we in the opposition feel very, very strongly about this bill that it's a bad bill and it's got to be withdrawn. If the whole bill is not withdrawn, at least let's get part IX withdrawn, give ourselves some time to discuss how we could organize ourselves better, if we can, while at the same time making sure that the men and women in this province have the very best fire protection service, as they have today, in the world.

*Applause.*

**The Chair:** I'd remind the audience that demonstrations are not permitted in the House or in committee.

**Mr Ramsay:** I didn't mind it all, Mr Chair.

**The Chair:** Thank you, Mr Ramsay.

**Mr Kormos:** And I encourage it, quite frankly.

**Mr Ramsay:** But he's a troublemaker.

**The Chair:** Please don't encourage it, Mr Kormos, because it would mean that the only remedy I have is to clear the gallery, and I don't want to do that. The police caused us no problems, and I am sure the fire staff are just as professional as our police services.

**Mr Kormos:** Thank you, Chair. This is my 15 minutes and that would go over like gangbusters, I'm sure, if you cleared the room.

Minister, I appreciate very much your being here and I appreciate your comments today. You're anticipating I'm going to take quarrel with more than a few of them, and let me start by your declaration that this bill somehow fills a vacuum, an absence of a requirement that municipalities provide fire protection. We heard you say that and I trust that's what you wanted to imply, that somehow the government here has bravely rushed in with legislation where legislation had been absent for so many decades and generations.

You spoke specifically about the requirement that municipalities provide fire protection, which is that broad

range of services which includes fire prevention and fire safety education and training of persons. It includes fire suppression, firefighting, confronting almost inevitably that dangerous scenario of fires in people's homes and in businesses and industries.

I'd ask you then at some point to explain how you can say this in your address to the committee, but how your act in section 2, which creates the requirement, what municipalities shall do, indicates that the only requirement for municipalities, the only mandatory role for municipalities, is to establish a program of public education with respect to fire safety and certain components of fire prevention.

In the mandatory section of the bill there's no requirement that a municipality establish programs of fire suppression, because the section goes on to say, "provide such other fire protection services as it determines may be necessary in accordance with its needs and circumstances."

Were you serious and was the government serious about truly requiring municipalities to provide fire protection services, it would have — and I invite you to — included by way of amendment to section 2 the complete range of fire protection services as contained in section 1 in the definitions.

You know I've been suspicious about the agenda of this government. I've suspected, as have a whole lot of other people, that pieces of legislation have a relationship even though it may not be apparent at first blush; for instance, the relationship between Bill 26 and now Bill 84, the agenda of privatization. Now you want to persuade people that there was an avenue or an access to privatization under the Municipal Act which preceded Bill 84, but you acknowledge that Bill 84 very much permits or accommodates privatization.

Minister, I don't know if you're aware of this, but the private, corporate, for-profit, American operators of any number of social services are lined up at the Peace Bridge a mile long, three across, ready to take over public services here in the province of Ontario and make big bucks doing it, and similarly charge big bucks. I don't buy into the concept that private firefighting, any more than private policing or private health care, is going to save anybody in Ontario any money. These are for-profit, profit-driven corporate bodies, almost inevitably American-based. My view, and I think the view of most Ontarians, is that they're going to result in a lower standard of services and, at the end of the day, with higher cost.

**1050**

I mean, come clean. Do you really think that private firefighting services can provide a better firefighting service than what has been provided in the public sector by some 9,000 currently professional firefighters in this province employed by any number of municipalities across the province of Ontario?

You should know that Rural/Metro, one of the big-time corporate, for-profit operators in the United States, wasn't content with simply maintaining its position in the lineup over at the Peace Bridge but it actually met, we're told, with the CAO of the municipality of Waterloo recently to try to sell its package. It had an audience, I'm told, with

the city of Waterloo, with its CAO, and talked about how it would propose to operate by increasing workweeks to 66 hours, inevitably by paying lower salaries, inevitably by employing less-qualified people than are employed in professional firefighting services now.

Now, you should know that Rural/Metro brings some baggage with it. I took a look at a couple of articles out of the Phoenix Gazette from Phoenix, Arizona. One news report from August 1987 talked about a scenario in which Rural/Metro took over 20 minutes to arrive at the scene of a house fire. The house burned to the ground. Rural/Metro then billed the homeowner for \$13,000 for equipment and services that the company itself was unable to provide evidence of having documented sending to the scene.

In another incident a year later, a report from the Phoenix Gazette in December 1988, a woman, Pam McGriff, told the Phoenix Gazette about how her house was totally destroyed while Rural/Metro — this is private, for-profit firefighting services, the type that you're accommodating in Bill 84 — firefighters, if you can call them that, just stood around and watched her house burn. It took them 14 minutes to get there, and the pumper apparently had enough water for only about three and a half minutes. One of the trucks broke down while it was in front of her house and had to be towed away by a tow truck.

You appear to take some pride in the fact that in Bill 84 you're further accommodating privatization of firefighting services. I say to you that Bill 84, any firefighting legislation in the province of Ontario, should specifically forbid privatization of firefighting services and should, by doing that, recognize the commitment and professionalism of the 9,000 or so professional firefighters here in Ontario currently. It should require that municipalities provide, among fire protection services, fire suppression services, and that they remain very much in the public sector as they have been.

I'm concerned because even in your address today — and I appreciate the way these things are crafted; people are paid a whole lot of money to sit in the minister's office and fine-tune these and get the language right — you kept referring to the federation and the association as unions. I have no quarrel with that and I suspect most firefighters don't, but we understand what your spin is there. I mean, we understand that you're trying to paint a picture that's perhaps more adversarial than reality would suggest. You've consistently, throughout your address, refused to refer to the association or the federation as the association and the federation. You talked about the firefighters' union, and again I understand. People are paid a whole lot of money to script these things and to try to put spin on them, and that's what's happened here. You want to create the image of there having been, or being, an adversarial relationship between firefighters and their employers.

I mention that in the context, of course, as has my colleague from the Liberal Party, of the inclusion in the bill of a denial of the right to engage in work stoppage. I agree. I mean, this is an affront to professional firefighters, none of whom have engaged in a work stoppage and all of whom are committed to quality firefighting services here in the province.

I've got to put this to you, because Jim Lee, the president of the Ontario Professional Fire Fighters Association, had this to say about Bill 84: "The price of the so-called cost-cutting measures contained in this bill may be measured in human lives and higher insurance rates for our citizens."

Further, Bruce Carpenter, the president of the Provincial Federation of Ontario Fire Fighters, said this about Bill 84: "Bill 84 jeopardizes the safety of both the public and our members. It would set the Ontario fire service back 75 years."

Those are remarkable statements from the leadership of the two bodies representing the 9,000 professional firefighters here in the province of Ontario when you purport to have — I'm throwing the word in "meaningfully," because to consult in a way that isn't meaningful isn't really a consultation; it's just playing with words. You purport to have consulted with these people.

As a matter of fact, and the message is ingrained, we've seen the videotape that the Premier made when he was campaigning in April 1995. I mean, we can read along with it. We've watched it — it's like your kids who watch *The Lion King* and they know the words to all the songs. We can read the text along with the Premier in the video that he presented to the firefighter conference in April 1995.

Mike Harris, then campaigning, now Premier, said: "We have serious concerns about some of the changes that are being contemplated with respect to the Fire Departments Act. No changes will be made under a Harris government" — and that's where we are, you know that; it's a Harris government, for better or worse. "No changes will be made under a Harris government until such time as your members have been thoroughly consulted." Thoroughly. "We will insist" — and this is a very interesting part, because this is one you haven't been forthcoming on. You may well be before this is over. "We will insist that all changes be fully costed both from the point of view of workers as well as management."

You didn't refer to that during the course of your submissions this morning. We've got an hour of technical briefing coming up, and I trust we're going to receive information about that costing to both the municipalities and to the professional firefighters and to the province.

One of the concerns we have is that you talk about the role of the fire marshal in supervising — mind you, you didn't put the standard into the bill, and that makes it very difficult for people to consider whether or not there's going to be any real standard at all, but you tell us that the fire marshal's office is going to be active and out there and monitoring and reviewing the fire protection services provided by municipalities.

Well, we don't think the fire marshal's office is in a position, has the capacity, to do that at this point in time, in view of its staffing, in all of those municipalities across the province. Again, no criticism of the fire marshal, but we simply don't think they have the budgetary capacity to engage in that particular role.

I don't know why you're doing this in terms of this legislation. I simply have no idea. I say that as rhetoric, because I do have a pretty good idea. I think your embrace of privatization is a lot more aggressive and



enthusiastic and passionate than you would lead us to believe. I think there's very much an agenda here; it's an agenda that's designed to create privatization.

You've downloaded on to municipalities. You're going to have companies knocking at their door prepared to buy up their sewer and water systems. You've got legislation in the works that's going to accommodate that here and now. You've got companies that are going to be offering private health care. And I tell you, you've already got companies, be it Wackenhut or Rural/Metro, that are going to be out there doing firefighting services. You've written a blank cheque to the corporate sector, particularly the American corporate sector, and you've done so to the great detriment of professional firefighters and to the safety of citizens of communities in each and every part of this province.

I'm hard pressed to think of anything you can do with this bill right now — well, I want to tell you what you can do with this bill right now, but for the moment I'd suggest that this bill be set aside, that there be meaningful consultation and that there be a thorough addressing of the concerns that have been raised now for several months by firefighters and by communities and by citizens of those communities across Ontario.

1100

**The Chair:** Thank you, Mr Kormos.

The clerk has determined that room 230, next door, is not available. However room 2, which is downstairs, is available as an overflow room. Unfortunately there is audio-feed only, but I understand that room is now open in case some of the people who are standing would like to sit for a little while.

We now have 15 minutes for the government caucus.

**Mr Ron Johnson (Brantford):** Thank you, Mr Minister. I'll be fairly brief, knowing that some of my colleagues would like to ask a question or two as well.

One of the things that surprised me when I first read this bill was the glaring omission about ensuring that municipalities had adequate fire protection. Could you just explain briefly to the committee the process and the role of certain bodies with respect to fire protection and ensuring that municipalities maintain a certain level of fire protection services?

**Hon Mr Runciman:** Mr Johnson, I raised the point about public safety and the responsibility of the Solicitor General with respect to public safety, and that's the number one priority related to all of the responsibilities that fall within the Ministry of the Solicitor General and Correctional Services. Certainly this minister, and I'm sure anyone who holds this office, doesn't want to initiate any change that will in any way, shape or form jeopardize or increase the possibility of jeopardizing the public's safety.

The evidence that I've been provided with and the recommendations that have come forward from most of the stakeholders in the fire community, the changes we've brought forward, will enhance public safety by focusing on the fire prevention side and making fire prevention and public education programs mandatory. I think there is a strong belief in the fire community that this will prevent fires from occurring.

I mentioned in my comments that the data that have been gathered by the fire marshal's office indicate that most of the losses that have resulted from fire could have been avoided through greater use of fire prevention and public education programs. We've seen, over the past quarter of a century, fire fatalities dropping about 60%, and I think most of that has been attributed to the increase in prevention and education.

We believe quite strongly, based on the input that I've received and the government has received, that by focusing on fire prevention and public education this bill will actually save more lives. I think a very important ingredient of all of this is the fact that if the fire marshal believes there's any threat to public safety in any municipality, he can conduct a review and make recommendations, and if that —

**Mr Ramsay:** Mr Chair, can I have a point of order, please, just a point of clarification on our proceeding here? It seems to me that I thought we agreed that the minister would make a statement and then the two opposition parties would have 15 minutes each. Then we would go into a technical briefing and then all three parties would have —

**The Chair:** No. Each caucus has the opportunity to make statements or ask questions, 15 minutes each. It was 15 minutes for the minister and 15 minutes for each caucus, an hour in total.

**Mr Ramsay:** Chair, if I may, I would refer you to the minutes of the subcommittee meeting.

**Mr Kormos:** Further to that point of order, I beg to differ with you, Chair. Of course, Mr Ramsay and I compared notes before he made his point of order. I'm reading paragraph 7 of the subcommittee report that was approved, and that is, "The opening statement of the Solicitor General will be scheduled for a maximum of 30 minutes and that the responses of opposition critics be scheduled for a maximum of 15 minutes per caucus on Monday morning, April 7."

I understand what's happening here. The government's trying to do cleanup, and neither Mr Ramsay nor —

**The Chair:** Excuse me, Mr Kormos, your point is well taken. Mr Ramsay, you're quite correct, the opportunity was not given for the government caucus for questions.

**Mr Ramsay:** We will have a technical briefing and then each party has a chance.

**The Chair:** I'm sorry, members. The subcommittee report which was adopted by this committee did not provide for 15 minutes for the government caucus, and I apologize for the inconvenience.

Mr Minister and fire marshal, thank you for your attendance here today.

**Hon Mr Runciman:** The fire marshal will be staying on.

## MINISTRY BRIEFING

**The Chair:** We will now move to the briefing by members of the ministry staff. The fire marshal, Mr Moyle, will be making at least part of the briefing on behalf of his department.

**Mr Bernie Moyle:** Thank you, Mr Chairman, members of the panel. My presentation is going to be done on 35-

millimetre slides, if you don't mind. The purpose of the briefing really is to give you the technical overview of the legislation and some rationale behind some of the policy decisions. Legal counsel will assist at various times during the presentation with some of the more complex parts of the bill.

I would like to draw your attention now to what exists in our legislation. It's pretty sparse. Our legislation is now comprised of nine acts.

Fire protection of any kind is not mandatory. Municipalities set the level and type of service. Municipalities can reduce fire protection and there's no provincial mechanism for intervention. For example, a large municipality, according to provincial legislation, could even employ volunteers if they wanted, reduce their fire service by 50%, and there's absolutely nothing anybody can do about that. They have not been irresponsible and we have provided a good level of fire protection, but there is a need to modernize and consolidate our legislation and bring it up to date based on the new realities that we're seeing.

1110

In order to fully appreciate the bill, you have to understand the composition of Ontario's fire services. If you look at the composition, there are 645 fire departments: 32 full-time; 127 composite, which are a combination of volunteer and full-time; 486 volunteer — 95% of the municipal fire departments now have a volunteer component, and that's a really important point. There's also fire protection in unincorporated communities where we have about 101 fire protection teams and about 1,350 firefighters providing fire protection in those areas. That's a little-known part of our fire protection delivery system. All groups provide, I think, an excellent level of service to the communities, and there's not really any dispute about that.

The point I'm trying to make here is, the legislation must address the needs and circumstances of the entire province. I'll just give you an example of how one of the changes would do that. Right now in unincorporated communities, which is very important to people in those northern communities, they're not considered fire departments; they're considered fire protection teams. Under the proposed legislation, fire protection teams would fall within the definition of a fire department. The reason for that, and why that's a benefit, is that they can then automatically become assistants to the fire marshal and they can also become fire chiefs and have the powers to investigate fires in their areas, two authorities they don't really have now. This clarifies once and for all that those teams in those areas will be fire departments. That will have a significant impact on prevention and education in unincorporated communities. They're very vulnerable in those areas because of their remoteness.

I'd like to provide an overview of the Fire Protection and Prevention Act for you. It's going to be fairly quick, but I want to talk about the improvement in public safety as I see it. This is very complex legislation; it's not that easy to understand. What I'd like to do is walk you through that so you have a basic understanding of the rationale and the concepts included in this bill.

Just a little bit on how the bill is organized: Part I is "Definitions"; part II is "Responsibility for Fire Protection Services"; part III is "Fire Marshal"; part IV is "Fire Code"; part V is "Rights of Entry in Emergencies and Fire Investigations"; part VI is "Inspections"; part VII is "Offences and Enforcement"; part VIII is "Recovery of Costs"; part IX is "Firefighters: Employment and Labour Relations"; part X is "Fire Safety Commission"; part XI is "Fire Marshal's Public Fire Safety Council"; part XII is "Miscellaneous" and includes regulatory powers; and part XIII is "Consequential Amendments, Repeals, Commencement and Short Title." That's how the bill is organized, and it's much better organized than the legislation we've had in the past.

What this bill does, very importantly, is clarify the relationship between the province and municipalities in fire protection matters: Municipalities are responsible for funding and delivering fire protection services; the province is responsible for providing support and also kind of an oversight role and a provincial fail-safe mechanism which I'll get back to later.

Municipalities fund fire protection 100%. We're responsible then to support that system through advice, training, fire investigation and such, through my office. But there is a strong provincial interest in ensuring that municipalities meet their obligations under the legislation. That was not there in previous legislation.

I want to talk a little bit about some of the fire safety improvements in this bill and I think they're very important. There are a lot of new provisions and they need some explanation. I'll go over them fairly quickly.

A very important one is the community fire safety officer or team. Why that's important is that it allows very small municipalities to meet the requirements of public education and prevention under the act. There are a number of small communities that just do not have the resources to muster a fire department, so this community fire safety team is the instrument in meeting that requirement for them.

The second one is that automatic aid is defined, and I'll get back to that later because that's an important concept.

Mandatory fire prevention and public education are also defined in the bill. That is a very important concept, and I'll tie that back into my presentation.

The establishment of a fire department means a municipality must have either a community fire safety team or a fire department to meet the requirements under the bill, and that's an important point.

There's a new authority for the fire marshal's office, and this reflects the provincial interest in ensuring that municipalities meet the responsibility under the act. This is new. Previously we could only go into a municipality if we were invited; there was nothing we could do about it. We had no authority to initiate a review of municipalities' fire protection systems. Within this — and there's one point Mr Kormos raised that I want to dwell on a little later on — is the monitoring function, and how that ties in to this particular authority.

There's also a regulatory authority for the Lieutenant Governor in Council to make regulations specific to a municipality if they do not address a serious threat to public safety in their community.



There are some other very good improvements here, one being broad delegation powers for the fire marshal and the fire chief, so any power I have under the act I can delegate to appropriate persons. The fire chief can also do that, and that's very important in regard to fire investigation and promoting fire prevention inspections within municipalities.

Another area we've improved on is that the fire marshal can direct assistants to the fire marshal. We've clarified that to address a ministry concern so that there's some consistency in the application of the fire code across the province.

Another very important improvement is the development of guidelines, which I'll come back to a little later. It's much easier now to introduce regulations in the fire code — there is ministerial authority — and the fire code is broadened in scope to cover greater areas, which we think is a significant improvement. The Fire Marshal's Public Fire Safety Council is now established in law, which we think is important.

What I'd like to talk about now, so you really get a handle on the rationale, is the fire death problem in this province. To understand the thrust of the legislation, you really need to look at how fire deaths occur. I'm going to examine 17 fire deaths that occurred in structures during January and February. There's no plan to that. We just took them because they're the most recent. They're fairly typical of how fire deaths occur.

I put some charts together and I'd really like you to take the time to think about them. The charts show the number of people who are over 60, and there are four of them. They also describe a little about what happened, the fire department response time and the status of smoke alarms. In other words, did they have a smoke alarm and it worked, or did they have a smoke alarm and it didn't work?

In this one, an over-60-year-old person's clothing was ignited by a stove. There's really not much anybody can do about that. The fire department's response time was excellent and their smoke alarm worked, but it doesn't matter if their smoke alarm worked because of the fact they ignited their clothing. There's very little you can do about that — it's very quick — other than "Stop, drop and roll," which is an educational concept.

Below that is another one, under 60, where the victim's clothing was ignited by a stove; died in hospital. The fire department response time was seven minutes, and yes, they had a smoke alarm.

In the next one the victim fell asleep while smoking in bed, with the door closed between the bedroom and the hallway smoke alarm. Fire department response was six minutes, and yes, the smoke alarm worked.

These next ones are all over 60. People over 60 are more vulnerable than any other group in our society. This first one was a misuse of smoking materials and a frail senior died attempting to escape. There was a 3.1-minute fire department response time, and yes, they had a working smoke alarm.

The next one was a senior found burned in the home, physically disabled, used a cane and a walker; a 4.3-minute response time, and yes, their smoke alarm worked.

The next one is under 60, who may have been intoxicated, preventing them from escaping. There was a nine-minute response time, which is not unusual in rural areas; that's why prevention and education are so important in those particular areas. Yes, they had a working smoke alarm.

The next one was a hotel fire and the cause was undetermined; over 60; 3.6-minute response time, and no, there was no smoke alarm installed in this particular case.

The next one, a victim over 60. The victim had the habit of burning incense in the bedroom; a 5.8-minute response time; no power in the smoke alarm.

The next one was a victim smoking, fell asleep, a typical scenario; a 1.2-minute response time; no working smoke alarm there.

In the next one, the victim went back to the scene of the fire and the clothing caught fire, died in hospital, possible suicide; a 4.9-minute response time; no battery in the smoke alarm.

The next victim fell asleep, was cooking French fries; a 3.7-minute response time; no smoke alarm installed.

Next one, again cooking with French fries; reasonable response time; no battery in the smoke alarm.

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Trailer fire, unattended Coleman stove; no response; none installed.

In the next one, the victim's clothing was ignited by stove; a 4.3-minute response time; no power to the smoke alarm.

In the next one, the victim fell asleep smoking and drinking; an 11-minute response time, which may not be unusual in rural areas; no battery.

A 60-and-above victim found in bedroom; fire originated in the living room due to careless smoking; five-minute response time.

The point I want to make here is that this reinforces the need for prevention and education. Nine of these victims ranged in age from 67 to 95 years old. Of 17 fires, 59% had no smoke alarm or no power source to the smoke alarm. It's a significant human behaviour problem that's at the root of this.

So how do we protect people with Bill 84 under these circumstances? These people are dying even though the average response time of the fire department is 5.2 minutes, and in many cases, despite the heroic efforts and the efficiency of the fire department, these deaths are occurring before they can intervene, before they can do anything about it. These are the kinds of deaths we think we can prevent through this legislation.

With people who catch their clothes on fire, there's not much you can do about it other than to educate them to not reach across a burning object or to stop, drop and roll when that does happen.

The fire department response is absolutely essential and critical in minimizing property loss and rescuing people once they arrive, but the kinds of things we're looking at and seeing across the province are people are dying because of actions that can be prevented. Some 95% of the homes in Ontario have smoke alarms installed. The problem is maintenance; educating people not to remove batteries, to maintain them at all times. That's an educational problem, an awareness problem, and this is really the focus of Bill 84.

These are very small numbers we're looking at. These are 1997 fire fatalities where the smoke alarm activated: 43%, and again they're small numbers.

In the first one, the victim's clothing ignited on the stove or a heater. The other ones: Victims were impaired by alcohol, victims were physically disabled, victim smoking in bed. We believe most of these fires could be prevented by proper education.

The conclusions are pretty stark. Fire deaths generally occur in residential occupancies. The fire department response was unable to change the outcome for these 1997 victims. Many of these fires could have been prevented by behavioural change, and we're very confident of that.

Let's get on with Bill 84. The greatest opportunity to reduce Ontario's fire deaths is to intensify our efforts in the areas of fire safety education awareness: Prevent the fire from occurring before it starts and know what to do when the fire does occur. You can see by the typical fire death scenarios I presented earlier that behavioural factors contribute significantly to our fire death problem in Ontario.

Bill 84 makes fire protection mandatory, fire safety education, and fire prevention. This gives every municipality responsibility to educate their citizens but also gives them the capacity to have an assistant to the fire marshal, an inspection capacity, a capacity to eliminate hazards and also to act on complaint of a fire safety problem. That effort would be supported through my office.

The instrument to carry that out in the act is the community fire safety officer or the community fire safety team. The municipalities must have this or a fire department, and both of those are "shall." A small number of municipalities do not have the resources to create a fire department. They don't have the population, they don't have the money and they're too widely scattered, so there's no central core from which to amass a fire department. That's why it's so difficult to mandate fire protection in every community. That spills over into unincorporated communities. The unincorporated communities are much more numerous when they get that size and those characteristics. So it's not practical, in some areas, to have a fire department because by the time you got everybody together, the building would have long been burned down.

This particular instrument is one that aims at getting people out alive, educating them, making sure their smoke alarms work. The interesting thing about this concept is that they can be people from all walks of life who can take part in this. This instrument cannot just be applied in an isolated community; it can be applied in other communities where response times are a little bit longer. They can put community fire safety teams in place in those particular areas.

To support communities and to support the effort, the Fire Marshal's Public Fire Safety Council has been put into law in this legislation. Right now, we have about 26 organizations and individuals, including the National Fire Protection Association and the firefighters' associations, fire chiefs, volunteers and private citizens, including older adults, participating on this committee. Bill 84 has removed some significant barriers for us and we see this

as an extremely important part of our support system, particularly for small communities, particularly in the operation of community fire safety teams. We'll also have a standard approach across the province in dealing with fire protection and public safety education. It focuses on public education.

The second line of defence is that fire safety standards are in place. This is the fire code, basically, which is covered in part IV of the legislation. We have a very strong fire code right now. We've expanded the fire code to include more subject areas, but the main thing here is that this is done by the fire service traditionally, or community fire safety teams, possibly, in the future, to eliminate the hazards, make sure the standards are in place, ensure building systems are in compliance with the fire code.

The first line of defence is that people know what to do. They prevent the fire from occurring. But if it does occur — and they always do and they always will; we'll always need a strong fire service for that reason — then the systems will work and people will get out safely. That's basically the thought behind that second line of defence. Bill 84 covers that very nicely. There are about 3,500 assistants of the fire marshal now across the province in municipalities to carry that out. We expect that to increase.

The third line of defence is the fire service. Municipalities must have either a community fire safety team or a fire department. They're both "shalls." We need to maintain an efficient and effective emergency response capability. It's critical to fire safety. Although many fire deaths occur before the fire department arrives, the firefighters save many lives and they reduce the property damage that results from fire. It's the third and last line of defence.

Fire protection: Bill 84 says "other fire protection services" based on "needs and circumstances." You look at fire protection services. A municipality may decide on Hazmat — hazardous materials — medical response, extrication, public assistance and fire suppression as being part of their delivery system. All those things depend upon a quick and effective emergency response, not just fire, so it's important that the response time in that system is maintained.

A fire department under the act must have fire suppression capability and it also must have a fire safety education program. Only about four municipalities right now do not have a fire department.

We get into the idea now of standards and needs and circumstances. This is a really interesting and frankly a very complex and difficult problem, because if you look across the entire spectrum of the fire services of Ontario, how do you set specific standards that apply across the board for a small volunteer fire department, a fire protection team, a large urban area? It's very difficult. Basically, a municipality needs to look at its own characteristics to determine the level of service. I'm going to give you a very good example of that. What is their economic base? Do they have a rural area? Do they have waterways, do they have Hazmat? All those things have to be considered when looking at needs and circumstances for a fire department.



I'd like you to pay close attention to this. I don't know whether you can see that well or not, but I'll go through it. This is very important. I'm comparing two bordering municipalities. Both of these municipalities have excellent fire departments, they're not overstaffed in my opinion, and on the surface they seem to be very similar. But if you look at it, municipality A covers about half the area of municipality B; the population is about 12% higher in A, 613,000 to 562,000; the fire department budget is \$84 million to \$48 million; the number of fire stations is 27 to 19; fire department staff is around 1,300 to 663. But look at the assessment. Assessment is \$83 billion in A and \$49 billion in B.

What I'm trying to point out here is that on the surface they seem similar, but from a fire protection standpoint they're not very similar at all.

If you look at the death rate in A, it's 8.8 deaths per year averaged over the last five years; in B it's only three. So B spends less money than A, has a third of the death rate than A, has fewer fire stations than A but it has a lower death rate. The injury ratio is the same. What you have to look at — this is where I'm talking about needs and circumstances — is the age of the building stock. In A it is much older, their assessment is much higher, they have much more to protect, they're much more densely populated and they have significant traffic congestion problems. So when comparing those two municipalities and their fire services, they're both appropriately balanced for their needs and circumstances.

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What Bill 84 intends to do is to give the tools for municipalities to make informed decisions to match risks to resources and to come up with a local solution of what their needs are.

One of the tools I'm very strong on — I know the minister is and I think most firefighters are — is automatic aid. This is another measure municipalities can use to in some cases dramatically improve their fire protection. It's defined in the legislation in a permissive way, but the bill encourages it by putting it there in the first place. It can maximize fire department resources on a day-to-day basis. For example, some fire stations may run as few as 500 calls; others might run as many as 4,000. You can maximize the use of fire stations through the use of automatic aid.

All things being equal, you would expect the closest fire station to respond to a critical emergency, and that's just not always the case. I'm going to give you an example, and this is a real-life situation that exists. Look at fire station B and fire station C: Fire station C is 17 kilometres away from station B's coverage. B can be into those areas, into area C, area E and area D much quicker than any of those other fire stations, but because of municipal boundaries, that just doesn't happen — although things are starting to change. It would make sense for fire station B to cover a much larger area in respect to fire protection.

The other thing I want to touch on is the definition of fire chief. The fire chief is the key figure in a municipality to be finding the appropriate level of service for the community. He's their expert, not me; it's the fire chief. He or she should have the opportunity to address

council for important fire protection matters. I think that's critical. The legislation lays that out, but not in a direct way. What happens here is that there's no direct reporting relationship to council implied by the legislation, but it does point out that the fire chief is ultimately responsible to council for the delivery of fire protection services. We see that as a very key area in the future.

Fire protection in Bill 84: The delivery system is 100% funded by municipalities. They set the level and type of service based on needs and circumstances, but they cannot jeopardize public safety.

I think it's important to note what the role of the fire marshal is in the province. The fire marshal is much like the chief coroner. I'm appointed by order in council and I operate somewhat independently by giving independent advice to government and municipalities that is objective. We administer provincial fire legislation and we provide an overall leadership and coordination support function, but our focus is public safety and my concerns are for the safety of the province's 11 million people.

The act specifies a number of duties that are very important. Fire investigation is critical when it comes to the monitoring function or finding out whether fire safety standards are in place. Training programs and evaluation systems are extremely important for our firefighters, particularly our volunteers, to make sure they are adequately trained to respond to the kinds of emergencies they face today. Our investigation purpose, of course, also deals with the criminal element. Maintaining a fire college is very important in the future when we get into the things like monitoring, risk management and the new provisions of Bill 84, so we see the fire college as being very critical to that. Of course, collecting information is extremely important to us.

Some other duties the fire marshal will have under the act, and some of these are very similar to those we had before, is keeping a record so I can tell the government and the public what's happening out there; providing information and advice to municipalities and government; and also advising municipalities on the interpretation and enforcement of the act and regulations.

There are a number of powers in the act, which are slightly different from duties. Subsection 9(1) confers certain powers on the fire marshal. One of the most important I want to talk about is the guideline power. We see this as a major tool for municipalities to be able to evaluate their fire protection and make informed decisions. We expect to develop those guidelines in consultation with all our stakeholders.

We think they should be flexible and adaptable because of variations, as I explained earlier, between different municipalities. Guidelines can be changed fairly easily, which is an advantage, and they certainly would help municipalities to make those informed decisions. We will use them in municipal reviews, and they will have weight because we will use them in municipal reviews, as a measure of what the municipality's fire protection systems look like.

We developed a comprehensive risk management model several years ago, and part of that was a staffing study. What this does is it just shows you how a guideline can be developed that's flexible and may meet the

needs of most fire departments and the variations between fire departments in Ontario. For example, this would imply a 10-person response to a residential occupancy. There are various ways they could deliver the firefighters to the scene through that particular model. This has been used by a number of fire chiefs quite effectively to convince council that staffing levels are correct, so we know they'll work.

The fail-safe provision: It's extremely important. You need to know how this is going to work in practice. We're working our way through that. It's complex and we are in the preliminary stages of development.

What we're doing now is working with the University of Toronto and a group called CAMERA. This is a post-graduate study group called the Centre for Assessment, Measurement, Evaluation, Research and Application. We're developing a whole monitoring system with them so we can monitor fire protection across the province. We're identifying what data we need to collect. From that data, we want to develop community profiles. We want to group similar municipalities together. We will be developing performance measures and, in the end, we'll be doing a comparative analysis between municipalities.

That will give us an opportunity to detect problems before they start or while they're still small. It's a problem-solving model that we want to do. We don't want fire safety to deteriorate. We want to be able to proactively intervene when there is a problem, and we believe this information will allow us to do that. It's still in the early stages of development, but we're quite excited about it.

If in fact we do think there's a problem — and previously I couldn't do a thing about it; I'd have to stand on the sidelines. If the municipality didn't want me to come in, they just wouldn't invite me — if they have a problem, I'm sure they don't invite me.

Now we have a review process, and a number of criteria could trigger an immediate review. Again, we haven't finished all the criteria. If we thought there was a public safety problem we'd look at things like: Have they closed the fire station? Is there a sharp reduction in staff? Is there an abuse of the mutual aid system? Are fire losses extraordinarily high compared to other municipalities in the same grouping? That could trigger a review.

The review is divided in two phases. We'd use the guidelines as part of this particular review. We'd set up a review process: We'd look at the assessment of existing fire protection services and we'd do an assessment of risk, and match those two. Also, we'd look at their economic circumstances. From there, we'd be able to determine whether there was a fire safety problem. If there was, we'd report to council. If there wasn't, we would stop our review at that point.

In the second phase of the problem-solving review we'd develop implementation options. We'd assess what the options would be, and it might be automatic aid or it could be other options. We'd identify the operational impact of council policy decisions. In other words, are they putting enough money into their fire protection services? Could they afford to put more into it? That may

be the entire problem. We'd develop a master plan, then we'd want to monitor, evaluate and revise.

If they failed to address the recommendations or the serious threat to safety, the Lieutenant Governor in Council could pass regulations specific to that municipality or general regulations for other municipalities.

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Bill 84 has three lines of defence, as we see it: fire safety education, fire safety standards, and efficient and effective emergency response. All are critically important, but the focus increases now on fire safety education, because we think we can do better. We think we can save a lot of those lives that are being lost, particularly our seniors when they catch their clothing on fire or fall asleep with a cigarette, those kinds of things. They're beyond the help of anybody. The only people who can help them are themselves, at that particular time.

Our legal counsel are going to explain the next sections: part V, part VI, part VII, part VIII and IX. I'll just leave it there.

**Mr David Burnside:** My name is David Burnside. I have beside me Anne McChesney. We are counsel with the ministry.

Part V of Bill 84 deals with the rights of entry on to lands and premises in certain circumstances. It provides that firefighters and others authorized by the chief may enter into lands or premises, or adjacent lands and premises, for the purposes of fire suppression, rescue and emergency services, including emergencies that pose a serious threat to life or the quality of the natural environment.

This part also authorizes certain fire personnel to enter on to lands and premises for the purposes of investigating the cause and origin of a fire, and for dealing with an immediate threat to life.

**Ms Anne McChesney:** Part VI of the bill deals with inspections and enforcement of inspection orders. The fire marshal, assistant to the fire marshal and the fire chief are all inspectors. An inspector may, without warrant, enter lands and premises for the purposes of assessing fire safety. An inspector may order the owner or occupant to repair the premises and, with the approval of the fire marshal, may order that the premises be closed until repairs are made.

There is a provision for the fire marshal to informally review an order of an inspector, and the fire marshal may confirm, amend or replace it with another order. An appeal may be made to the Fire Safety Commission, which can, after a hearing, confirm, amend or replace the order with another order. The Fire Safety Commission's orders may be appealed to Divisional Court.

Bill 84 groups together the current offence provisions and provides some changes on offence levels. It's an offence to fail to comply with an inspector's order. Once a conviction is obtained, a provincial court judge may order that the premises be closed or that any structure or substance be removed from the premises. An inspector may also apply to Ontario Court (General Division) for an order that directs an owner to comply.

If an order requires an owner to do something, to carry out work on the premises, an inspector may apply to the commission for an order authorizing him or her to



actually do the work. Costs that are incurred as a result of doing this work may also be authorized by the Fire Safety Commission.

Much of the substance of these provisions is the same or reflects existing provisions, with a couple of exceptions.

The first deals with warrants. Although inspectors currently do obtain warrants for entry where the owner refuses them admittance, there is a provision and a procedure in the act for obtaining a warrant.

Second, the bill changes the informal review conducted by the fire marshal slightly, so that all orders must be reviewed by the fire marshal before an appeal can be taken to the Fire Safety Commission.

**Mr Burnside:** Part VII of Bill 84 sets out the offences and enforcement provisions. By and large, what we have done is consolidated the various offence provisions that were set out throughout the Fire Marshals Act. Offences include hindering or obstructing the fire marshal, an assistant to the fire marshal or the fire chief; refusing to cooperate with an inspector; contravening any provisions of the act and/or regulations; or refusing to carry out the instructions of a fire marshal, an assistant to the fire marshal or a fire chief.

Penalties for individuals are fines of up to \$10,000 or imprisonment for one year. Corporations are subject to fines of up to \$50,000. Penalties for failing to comply with an order made as a result of an inspection are up to \$10,000 for every day during which the non-compliance continues.

**Ms McChesney:** Part VIII provides a mechanism for the province or for a municipality to recover costs that they have incurred in carrying out work that has been authorized by the Fire Safety Commission or costs incurred in responding to an immediate threat to life and taking appropriate measures. The costs may be collected through the court process or in the same way as municipal taxes, by adding it to the tax roll. There are similar provisions relating to recovery of costs in territory without municipal organization. Again, these provisions largely exist currently in the Fire Marshals Act.

**Mr Moyle:** We'll now proceed into part IX, and legal counsel and myself will share this. What we'd like to do is provide an overview of the more significant changes in the proposed legislation. Firefighter employee relations are now covered under the Fire Departments Act. A general statement about this portion of the act is that it provides more flexibility in the organization and administration of fire departments and moves firefighter employer/employee relations more in line with broader municipal public sector employees.

There's a role now for the Labour Relations Board in this legislation where there was not a role previously. It defines the employer to mean a municipality or a private organization or individual. The previous link here was — and it still exists. That authority exists right now in the Municipal Act; it was pointed out by the minister.

The next one is changes in definition of a firefighter to allow for part-time firefighters. Under the proposed legislation, part-time firefighters could be used in the delivery of all aspects of fire protection services such as suppression, fire safety education, communications and

inspections. The Fire Departments Act definition of firefighter also included "assigned exclusively to fire protection or fire prevention duties." Bill 84 is now more flexible and recognizes a broader range of services provided by firefighters such as medical responses.

Subsection 41(1) sets out a procedure for the termination of firefighter employment. The Fire Departments Act entitles a firefighter to a hearing before council as well as a grievance procedure in a collective agreement if one existed. Now, a firefighter is entitled to an independent review only if the collective agreement doesn't provide for another review mechanism.

Some other changes: Under Bill 84 fire departments are considered an essential service, which they always have been. They're not allowed to strike or to be locked out by the employer. This was not addressed in the Fire Departments Act because it was implicit with the seamless collective agreements which were designed under that particular legislation.

Also, under the Fire Departments Act a fire chief was required to recall any off-duty firefighter in the event of a fire, flood or other disaster that required the services of all firefighters. Under Bill 84 the definition is changed to major emergency and a fire chief can recall any number of firefighters when such an emergency occurs. There's also another amendment to the hours off duty provision and the words "or calls" have been deleted. So the firefighter is free from fire department duties but if the fire chief or administration requires to phone them, that's permissible under the new legislation.

Under part IX, subsection 44(8), probationary firefighters can be terminated without cause during a 12-month probationary period unless the collective agreement provides otherwise. This is a change from the Fire Departments Act where a probationary firefighter had the same rights as other firefighters.

Maybe David or Anne could take over here.

**Mr Burnside:** Bill 84 provides for a process of certification of bargaining agents by the Ontario Labour Relations Board that is similar to the process set out in the Labour Relations Act, 1995. Bargaining agents who are signatories to existing collective agreements are deemed to have been voluntarily recognized by the employer as bargaining agents for the purposes of this part. Where no trade union has been certified as a bargaining agent for firefighters in a unit and there is no collective agreement in place, a trade union may apply to the board for certification.

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A trade union is required to file the application for certification with the Ontario Labour Relations Board and it shall be accompanied by a list of names of the union members. The trade union is required to deliver a copy of the application to the employer without the list of names. Upon receipt of an application the board shall determine the voting constituency to be used for a representation vote. The board will certify a trade union as a bargaining agent if more than 50% of the vote is in favour of the union. If the trade union is not certified, its application will be dismissed and it will be unable to bring a further application for another year.



Firefighters may apply to the Ontario Labour Relations Board for a declaration that a trade union no longer represents them if a collective agreement has not been made within one year of the trade union being certified. In circumstances where collective agreements are in place, the bill sets out timing mechanisms during which firefighters may apply for a declaration that the trade union no longer represents them. Generally, an application for a declaration can be made during the last two months of the term of a collective agreement.

The Ontario Labour Relations Board will declare that the trade union no longer represents the firefighters in a bargaining unit if more than 50% of the vote cast is in opposition to the trade union. If there's less than 50% of the ballots cast in opposition, then the application will be dismissed. Where an employer has entered into a voluntary recognition agreement with a trade union, there are challenge periods during which firefighters may apply to the board for a declaration that the trade union was not entitled to represent them. The board has broad powers to make inquiries in respect of an application and to hold representation votes where necessary.

Finally, there are timing provisions for bringing applications for certification or termination where the collective agreements have not been made within one year after certification and a conciliation officer has been appointed by the minister.

The collective bargaining process is set out in Bill 84 as well. Following certification or voluntary recognition, where no collective agreement is in place, the trade union shall give the employer written notice of its desire to bargain. Where a collective agreement exists, the employer or the bargaining agent may give written notice of its desire to bargain within 90 days before the collective agreement expires.

The employer and the bargaining agent must meet within 15 days after receiving notice and bargain in good faith and make every reasonable effort to make an agreement. Where notice to bargain has been given under section 50 by a trade union and no collective agreement is in operation, there is a statutory freeze in relation to the rates of wages and other terms or conditions of employment. In effect, the employer or the trade union cannot alter these terms without the consent of the other party.

The bill sets out a procedure for conciliation and arbitration. Conciliation is mandatory for interest disputes. Unresolved disputes proceed to final and binding arbitration. Matters will be referred to an arbitration board unless the parties agree to refer the matter to a single arbitrator. Powers are given to an arbitrator, the chair and the arbitration board to require production of documents, to summons and enforce the attendance of witnesses and to administer oaths and affirmations. An arbitration decision is binding on the parties. There are provisions setting out time frames for the parties to prepare and execute a collective agreement giving effect to the decision of the arbitrator or the arbitration boards.

A single arbitrator determines rights disputes. A rights arbitrator has the same power as an interest arbitrator or board of arbitration to require the production of documents, to summons and enforce attendance of witnesses and to administer oaths and affirmations or accept evi-

dence or enter premises where work is being done and so on. Where an arbitrator determines that a firefighter has been discharged or otherwise disciplined by an employer for cause and the collective agreement does not contain a specific penalty, the arbitrator may substitute another penalty.

**Mr Moyle:** Section 58, managers, not firefighters: Under the Fire Departments Act, as you're probably well aware, only the fire chief and deputy chief are excluded from the bargaining unit. Under Bill 84 a municipality may designate from two to five management positions, depending on the number of firefighters in the fire department. For example, a fire department with 300 or more firefighters may designate up to five managers, and fire departments with fewer than 25 persons may only designate two.

An employer may also assign a person employed by it to a position which, in the opinion of the employer, involved the exercise of managerial functions or is employed in a confidential capacity. The latter positions can be challenged by the union before the Ontario Labour Relations Board.

Section 88 has some ministerial regulating powers and a fairly broad range of them. Things like standards for fire apparatus, inspections for hotels, record keeping and statistical information which are vital to our monitoring function, defining "regularly employed" and standards for fire protection and training and certification of firefighters are all covered in that particular section.

Just in summing it up, the underlying philosophy of the proposed legislation really is to prevent fires from occurring in the first place, to educate the public, municipal officials and the fire services in all aspects of fire protection, management and control; in other words, to define the lines of defence that we talked about.

A proactive approach to the early identification of problems and the quick resolution should reduce the need to regulate. However, if a municipality is not willing to address serious delivery problems, the government, in my opinion, should not hesitate to regulate fire protection services.

In my opinion, from a fire safety perspective, Bill 84 is leading-edge legislation. We're entering into areas here that haven't really been addressed before, in the areas of monitoring, review, defining what is a serious threat to public safety, very difficult and challenging areas, and areas that will challenge us and the staff of my office. I won't make any mistake about that.

It does represent a paradigm shift in the way we look at fire protection services, what our priorities are and how they shall be delivered, and it will certainly challenge the fire service in municipalities and so on. There's no question about that.

What we need to achieve here, and I mean this very sincerely — cooperation will be the key to how effective the implementation of Bill 84 will be. So there's a critical balance between fairness and cooperation and how you achieve that balance.

The framework must provide the flexibility for municipalities to manage and operate the fire departments in a most cost-effective manner, because if they can do that,



there's no question we can maintain the level of service or even a higher level of service.

Having said that, there has got to be a fair and reasonable balance between a municipality's rights and the rights of the firefighters with respect to labour management issues, and if we can achieve that balance, I think we can improve fire safety dramatically in this province.

In my opinion, Bill 84 is one of the most comprehensive provincial fire acts in Canada. It is, in my opinion, the most comprehensive and will provide us with the framework to effectively reduce our fire losses and make Ontario the most fire safety community in North America.

I think we're leaders now, but we can really enhance that role, but we need to do that together, we need to address the problem of fire in Ontario together. That's with the fire chiefs, government, municipalities and our firefighters throughout the province.

**The Chair:** Thank you very much. We have 10 minutes left per caucus for questions or statements.

**Mr Kormos:** Why would the bill want to facilitate private firefighting services? How does that fit into the model that you just displayed about the need for effective and efficient — I believe those are two of the words that were used, "effective and efficient" — fire protection services, including fire suppression? How do private firefighting services fit into that model, effective and efficient?

**Mr Moyle:** I don't think the bill facilitates it. I think it has always been there. A municipality has always had that option and, interestingly enough, no municipality in Ontario has ever privatized their fire service, and I think for very good reasons, Peter. I think our labour laws are different here. Any private fire department would be subject to the same requirements as our municipal fire service. In other words, the review process, the serious threat to public safety, would kick in.

We have a terrific municipal fire service in Ontario, and I agree with that, but it's a matter of government policy whether they want to include privatization in the bill, and if our fire services are as competitive as they can possibly be, I don't think privatization's a threat, frankly.

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**Mr Kormos:** Okay. I appreciate you're here as the fire marshal and not as a politician. So you're serving the Ministry of the Solicitor General —

**Mr Moyle:** That's correct.

**Mr Kormos:** — as a civil servant, and I appreciate that. I hear what you're saying. I think we agree about private firefighting services. I think we do.

**Mr Moyle:** Is this a trick?

**Mr Tilson:** Watch it; he's tricky.

**Mr Kormos:** No. I hold them in great disdain, based on the experience that people have had with them down in Arizona and New England. You're arguing that public firefighting services have a proven record here in the province of Ontario.

**Mr Moyle:** Yes, I'd say that without a doubt.

**Mr Kormos:** I've got a feeling that somebody's going to move an amendment under the definition of "employer" to delete the reference to persons or organiz-

ations that employ firefighters, which is perceived by a whole lot of us as this opening of the door to private firefighting services. When the Solicitor General asks for your advice on that, I trust that you're going to tell him that you're in accord with the deletion of that from the bill.

**Mr Moyle:** To be quite honest with you, Mr Kormos, and I have to be quite frank with you, my business as the fire marshal is not so much how municipalities organize their fire department; my business is whether that organization results in a safe service for communities. That's my position as the fire marshal.

**Mr Kormos:** I don't want to put you in a position that's uncomfortable.

**Mr Moyle:** I'm not uncomfortable at all.

**Mr Kormos:** And I don't want to put you in that position. You know where I'm coming from. I, along with more than a few people in this room, am adamantly opposed to the proposition of private firefighting services. Somebody advised the drafters of this bill to include the provision that employers shall include persons or organizations that employ firefighters. I'm wondering in response to what sort of policy request that was included in the bill.

**Mr Frank Klees (York-Mackenzie):** On a point of order, Mr Chair: This is a technical briefing, and I don't believe that it's appropriate for Mr Kormos to be challenging staff on issues of policy.

**The Chair:** I think it's a little wider than that, Mr Klees. I would overrule that at this time. Please proceed, Mr Kormos.

**Mr Moyle:** The provision for municipalities to provide private fire protection has always been implicit in the Municipal Act. As far as we're concerned, as far as I'm concerned, there's no change in this particular legislation. Now, the legal technicality of how it's written in there, I can't advise you on that. Maybe Mr Burnside could.

**Mr Burnside:** What the fire marshal has said was correct. We believe that there is the authority in the Municipal Act to contract with private individuals. What the definition of "employer" under part IX was attempting to achieve is to ensure that the collective bargaining process for those employees or firefighters would be pursuant to part IX as opposed to going generally under the Labour Relations Act. It's a technical answer, but that's why it's there. It doesn't create anything new; it just ensures that the collective bargaining process will occur under this act as opposed to under the Labour Relations Act. But we feel that the ability to engage private individuals already exists in the Municipal Act.

**Mr Kormos:** Having said that, what does the addition of "person or organization that employs firefighters," in terms of being among "employer," do to achieve what you're talking about? You know where I'm coming from, and I think that's the open door for private firefighting services. You're telling us to the contrary. Tell me what it does and why that can't be deleted.

**Mr Burnside:** What I'm trying to do is clarify and indicate that the authority to engage private individuals is the Municipal Act. What we're trying to do in part IX is to ensure that the firefighters who are providing the service, whether it's directly as employees to a municipi-

pality or to a private organization, would collectively bargain under that part of our Bill 84. If they were excluded somehow by definition, if you only had a definition of "employer" saying it has to be a municipality, then presumably, since the Municipal Act still speaks, it would be possible in theory, although, as Mr Moyle has indicated, it has never happened in practice in Ontario, for a municipality to contract with private individuals for fire protection services. But those employees of that private organization would be left to collectively bargain under the Labour Relations Act.

**Mr Kormos:** I'm going to go back to the fire marshal, because I'm worried about the stories we've heard about Wackenhut in — where is it? — New England and about Rural/Metro down in Arizona. Have you had a chance to take a look at the sort of services they provide down there?

**Mr Moyle:** Interestingly enough, I had Rural/Metro, as an educational endeavour — I invited the firefighters' association and the fire chiefs to the fire college to listen to what they had to say, because their point of view on things is quite interesting. I can't honestly give you any kind of an evaluation of what their performance would be like, Mr Kormos. It's not something I've studied. My concern is, if a private fire company was organized in Ontario with unionized firefighters in a municipality, then they would not be allowed to reduce the level of service that would pose a significant risk or serious threat to public safety. We would be on them the same as we would any other municipality. So the test would be there.

**Mr Kormos:** I'm wondering also, in subsection 2(1), paragraph (a), where it indicates that every municipality shall "establish a program...which must include public education...and certain components of fire prevention," why that doesn't include fire suppression.

**Mr Moyle:** If you go down one more, it says in meeting those responsibilities they must either establish a community fire safety team or a fire department. Here's the crux of the issue, because it makes sense to have a certain level of fire protection across the province. But if you look at some of these communities and the variations, from unincorporated communities to small volunteer to large urban, it's a very difficult nut to crack in that way. If you have 75 people living in a rural area and there's no central core, you just don't have the capacity to have a fire department; it's not feasible. So you drop back to a community fire safety team to ensure that the public is educated, they have working smoke alarms and they can get out of their homes. That's the crux of the issue. If every municipality had the capacity to deliver a volunteer fire service, for example — but municipalities have fire departments because they want them and they make sense. There would be a tremendous public outcry if you didn't have a fire department in these areas.

**Mr Kormos:** I would put to you that the same argument could be made about public education and fire prevention. If it's simply on the basis of making sense, that's perceived or included as one of the mandatory requirements, whereas fire suppression isn't.

I appreciate the issues that were raised in the presentation and the data that were provided, but at the end of the day we're talking about the shortest possible response

time to a fire by firefighters, aren't we? Isn't that the crux of community safety? Certainly one can't rank them in terms of priorities, but that's certainly equal to fire prevention and fire safety, isn't it?

**Mr Moyle:** I would take issue with that. I would go back to the three lines of defence. If you can prevent the fire from occurring, if you can prevent an older adult from catching their clothes on fire, of which we have a significant number every year — the fire department can't help them. The only person who can help them is themselves. Even the smoke alarm can't help them, because they're consumed very quickly. The fire department response is critical in a number of areas: medical responses, Hazmat fire suppression; they rescue people when they get there. Absolutely they're a critical part of the three lines of defence. But surely you and I and everybody else in this room would want to prevent the fire from occurring in the first place.

**Mr Kormos:** I agree. In an ideal world, there would be no fires, nor would people make French fries.

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**Mr Klees:** My question is to the fire marshal. Thank you, sir, for your briefing this morning. Before I get to my question to you, I just want to take the opportunity to thank the many firefighters who have in fact consulted with us over the last number of months. I have to say that I think of all of the legislation that we've introduced, probably the most organized forum of consultation has been with Bill 84. Now, why that is, I'm not sure, but you're certainly well organized, and thank you for that.

Fire marshal, I would say that probably one of the things government is constantly being criticized for is that we tend to deal with symptoms rather than the root problem. Government traditionally is known for throwing a lot of money at trying to solve symptoms.

One of the things I find very interesting about this particular piece of legislation is that I think to a large part it's trying to get at some of the root cause, and hence the focus on prevention and education. I also, on behalf of the government, want to commend the many individuals who have been working on this legislation over the last number of months to begin to address the root problem of safety around some of these issues.

I'm confused that my colleague David Ramsay and — well, not so confused that Peter Kormos would make this suggestion. But I find generally Mr Ramsay to be very constructive in his critique of legislation. For him to suggest that the government should withdraw this piece of legislation really puzzles me, particularly because of the very strong emphasis on the issue of prevention and education. Having said that, I'd like to focus in on that, because you're aware of the very strong campaign that the people in Ontario have heard. We've all become very aware of the message that's out there now, and that is that Bill 84 will be detrimental to safety. All of us are concerned about that, if in fact that were the case.

You make reference to the fact that it is your office that's responsible for the training and evaluation of firefighters in this province. Is that correct?

**Mr Moyle:** The municipalities are responsible. We would be providing the support systems in their endeavours. Under the Occupational Health and Safety Act, the



municipalities are responsible for training their employees, but there is regulatory authority to introduce standards and certification for firefighters in the act, which is important.

**Mr Klees:** Can you share with me where the actual training programs for firefighters in this province are developed and who has the responsibility for oversight of that training?

**Mr Moyle:** Right now we have the major responsibility through the Ontario Fire College to train firefighters and fire officers, but we also work very closely with the Ontario Association of Fire Chiefs and other groups such as the Ontario Professional Fire Fighters Association, the municipal training officers, fire prevention officers and volunteers.

We have a professional standard-setting body, and we have developed a number of professional standards for firefighters across this province. My office has developed an extensive curriculum for volunteers and for full-time professional firefighters. I think something like 500 fire departments out of the 645 are now using that. We're now developing testing criteria to give them certificates of achievement for doing that. In fact, I will be going down next week to present the first certificates to a composite fire department in LaSalle. So the training is in pretty good shape in the province, I would say.

**Mr Klees:** I would think the training is at the heart of the issue of safety. We can have all kinds of policies, and if we don't have the appropriate training program and coordinate a training program across the province, then our policies would be of ill effect.

What I'm really looking for from you as the fire marshal is an assurance that as we move forward with this bill, and we're going to continue to look for input on this bill over the next couple of weeks, we end up with a piece of legislation that not only will speak to safety but will in fact have grounded, and hopefully with some authority resting in your office, that there will be a responsible coordination of training across the province that reaches out not only to full-time but also to part-time, if we're going to move in that direction, and the volunteer sector of firefighting in the province. Can you give us that assurance?

**Mr Moyle:** Yes, absolutely. I believe the system is in place now. We can always improve on it, we're developing more and more as we go along, but for backstep firefighters there's an excellent training program in place now.

**Mr Tilson:** I represent the communities of the county of Dufferin and the town of Caledon, all of which are served by volunteer firefighters. I also represent a number of constituents who work for the Brampton fire department. I've consulted with all of these groups unofficially and officially, and the Brampton Professional Fire Fighters Association has seen me several times, individuals and as a group. One of their statements troubles me: "The new definition of a firefighter, which is in section 41, will inevitably lead to less qualified, part-time firefighters. This is clearly a cost-saving measure and will jeopardize public safety. Fire and emergency services are not a part-time occupation." In other words, there's the suggestion that there's a problem with fire services of part-time volunteer firefighters.

I understand from a union perspective why that may trouble them, but on the other hand I represent an area which is completely served by volunteer firefighters. I need some assurance to take back to my constituents who are served by these volunteer firefighters that everything is okay, that the excellent services, in my view, that are being offered in Caledon and in Dufferin will continue.

**Mr Moyle:** I can speak firsthand from Caledon because I was a volunteer there myself for seven years, and they do provide an excellent level of service. There's no question about it. But as you get into the larger, more urban areas, the fire protection problems obviously become more complex. The risks are greater, the population density is different.

**Mr Tilson:** I understand that.

**Mr Moyle:** Certainly there are ways that I believe part-time employees could be used effectively. If the use of part-time firefighters is abused or in any way threatens public safety, there is regulatory authority within the legislation to pass regulations on the use of part-time firefighters.

Right now they can employ volunteers, for example, and certainly a part-timer in smaller communities, particularly volunteers. When they start to get a little busier, it makes sense to then go to a part-time system, probably. Another thing I'd like to point out is that there are a lot of composite fire departments now that are very busy that employ volunteers. The use of part-timers in some of those locations may make sense in the future, particularly if it becomes difficult to get volunteers, and they can be unionized. I think there's significant potential to increasing union membership in those particular cases. But if there is an abuse of the part-time worker, we could deal with it under the existing legislation.

**Mr Ron Johnson:** My question will be for legal counsel. With respect to privatization, we've heard that in the Municipal Act apparently the powers already exist for municipalities to explore that as an option. Is there anything within the Municipal Act or within Bill 26 that would prevent the government from putting a non-privatization clause within Bill 84?

**Mr Burnside:** If I understand your question correctly, you're asking whether it would be possible to close off that as an issue in this legislation?

**Mr Ron Johnson:** Yes.

**Mr Burnside:** It may be open to have that kind of clause in this legislation. I would point out to you, however, that the amendments put forward in Bill 26, the Savings and Restructuring Act, contain wording to the effect that it's despite any other act. So there still would be an argument in certain circumstances that there could be privatization, although that wording was limited to the moving of services to upper-tier or lower-tier and in the context of the amendments. It may partially accomplish that, but it still may leave an argument that in certain circumstances the Municipal Act may still speak.

1220

**Mr Ramsay:** That was an excellent question from Mr Johnson. Obviously the answer is that the damage was done last year in the passage of Bill 26, and that's why the opposition was so adamant about opposing that.

Fire marshal, I'd like to —

**Mr Kormos:** Filibustered.



**Mr Ramsay:** We did actually. Fire marshal, I'd like to ask you a few questions on something you were just talking about with Mr Tilson, and this was in the use of part-timers. What do you mean by the abuse of part-timers?

**Mr Moyle:** There's been this scenario played out which doesn't make a lot of sense to me that they would have a reduced level of service and have part-timers sitting at home. When you get into large urban areas it just doesn't make any sense. It just isn't going to happen. I was trying to address that.

In the city of Toronto you have fire stations running 4,000 calls a year and in the city of North York the same. In those large urban areas, that scenario, to me, just didn't fit. If anybody tried to drop the level of service, we could handle it two ways: if it posed a serious threat, which is our fail-safe, or there could be some regulatory authority to deal with that.

**Mr Ramsay:** What you're saying is that you don't think it to be a good idea, in a large urban centre, to run a fire department using a majority of part-time firefighters.

**Mr Moyle:** In that particular way, but there are other ways that you'd use part-timers very effectively. I'd be quite happy to elaborate on that.

**Mr Ramsay:** I just want to get to the core of this. You're saying you don't think it would be an abuse of fire safety if, say, Toronto or some urban centre decided to get rid of all the full-timers and tried to run the operation 100% or 90% with part-timers. You're saying that's an abuse. That's just not going to provide the fire safety we require.

**Mr Moyle:** What I would say to you is that each circumstance would be weighed individually. In other words, I'd have to look at that. I'm not going to sit here and make a decision. I'd have to see what the circumstances were and what they did about it. But in a place like the city of Toronto, to employ part-timers in place of full-timers, I'd be very concerned about that, yes.

**Mr Ramsay:** If that's a concern, then why wouldn't we put the protection in the bill to begin with? When you're talking about public safety, people get very concerned. I share the same concern as you do. Why wouldn't we put that protection in the bill that could calm some of this concern and say it would be inappropriate, in large urban centres, to try to convert a full-time service to a part-time service?

**Mr Moyle:** Because the authority to review municipal services is individual, you would look at passing a regulation, if necessary. First of all we would try to solve the problem before it happened. So it would be looked at individually, not across the board. I don't know where you draw the line in the use of part-timers. Every situation would have to be looked at differently, evaluated and a decision made whether it was a threat to public safety. That's the way it would have to take place.

**Mr Ramsay:** The problem I worry about is that maybe, and you're right, through regulation we'd be able to fix it, but then after the fact — we've got municipal elections coming up this year. I could be running for municipal office in, say, a small urban centre in Ontario and I'd certainly want to cut the budget of the local

municipality — I'm not a professional at this — and I'd think that maybe I could run the fire department now with part-timers. So a slate of us gets elected and that's what we do, and yes, you could come in after the fact and correct it, but maybe we've got a part-time operation now where we should have had it like it was before and maybe we've put the people in jeopardy.

**Mr Moyle:** Again, each situation has to be looked at on its own. I think part-timers can play a significant role in the future in fire protection. I believe that should be in the act. I think that flexibility needs to be there. I'd have to look at each situation on its own merits wherever that occurred. That's the only answer I can give you. The regulatory authority is in the act, the fail-safe provision, so we have the power to act.

**Mr Ramsay:** Okay. Would you agree that this bill could allow the establishment of a privatized fire department?

**Mr Moyle:** This bill? The Municipal Act allows that, as we've said, and I think the purpose of this bill, as legal counsel pointed out, was to make sure that if there were private firefighters, they fell under this legislation, which I think is to our advantage. I think it's the Municipal Act that allows it.

**Mr Ramsay:** And this continues it, I guess. It also continues to allow it.

**Mr Moyle:** I think it just defines the employer. Again from a technical point of view, David would have to answer that question.

**Mr Ramsay:** Do you think a privatized fire department would be better than the ones we have here today?

**Mr Moyle:** I think we have an excellent municipal fire service that delivers a fine level of service. As I said earlier, as the fire marshal, my business is whether fire safety is seriously threatened in the province. How municipalities design and manage your fire service is not my business. It's a government policy decision whether they want to allow private fire protection.

**Mr Ramsay:** But in your capacity of fire marshal, you're certainly going to be supervising any changes that municipal fire departments may be making to ensure public safety?

**Mr Moyle:** Absolutely. Yes.

**Mr Ramsay:** I want to talk about some of the management exclusions in the bill and first just to ask what the problem has been that it has been required to have these exclusions in the bill in order to create more managers now. Has there been a problem?

**Mr Moyle:** I think there's a principle here. For example, if the megacity were to go through, I'd throw the question back at you: Would it be reasonable to have two managers for 3,200 firefighters? What other business in this province would try to manage a corporation of 3,000 people with two managers? It doesn't make sense. It certainly doesn't give enough, as far as I'm concerned, for the municipality or the fire chief. It doesn't give them a management team that I think they need to run the fire department.

**Mr Ramsay:** Has there been a problem to date with the way fire departments have structured themselves in providing fire safety to the people?



**Mr Moyle:** That's something you'll hear arguments put across the table to the panel on during the next couple of weeks and I think you can make your judgement on that. I think it's necessary and in the best interests of the municipalities. It's got to be done fairly, but the fire departments, without question, need more managers. They need 24-hour-a-day management.

**Mr Ramsay:** I'm just going to ask you, do you agree that there's never really been any time lost by a firefighter because of labour-management disagreements in the past?

**Mr Moyle:** You mean through strikes?

**Mr Ramsay:** Yes. A strike, any work action. Has anybody been put in jeopardy by a firefighter in Ontario because of any work action?

**Mr Moyle:** Not that I know of. Not that I'm aware of.

**Mr Ramsay:** That's good to hear because that's my understanding too. Then why is it so important to put the sort of no-strike clause in the bill? Why did you see fit to do that? Why did you see fit to ensure that there was a no-strike clause in the bill?

**Mr Moyle:** I thought the government decided those policies. I didn't see fit to put anything in this bill, sir.

**Mr Ramsay:** Okay. Just as a government employee and head of the fire service — why is it there? Would you think that's a good idea then?

**Mr Moyle:** I think it's a good idea that it's in the bill. I think there hasn't been a labour stoppage. I'm not an expert in this field, so I may have to defer to the legal counsel, but I believe it was the continuous collective agreements, essentially, that it was implicit there was no strike. I'm not sure, David, under this existing system, how that affects it.

**Mr Burnside:** In changing over to having provisions more similar to the Labour Relations Act, it meant an alteration to the seamless collective agreement that existed under the Fire Departments Act. Our view was that since a collective agreement always continued under the Fire Departments Act, it was not possible to have a work disruption, to have a strike.

When we moved to having collective agreements that would come to an end and we introduced concepts such as statutory freeze, it then became necessary to address up front an issue that we thought was always there, in that firefighters were not able to strike.

**Mr Ramsay:** Did it ever come up in discussions before you did this that labour relations are more about clauses and bargaining, that they're about the relationship between employer and worker and about the level of dedication of the worker to the job and to the department? In this case, why did the government see fit to put that in when there really was no problem? There was never even a threat to strike.

**Mr Burnside:** That may get into a policy area which I'm not equipped to discuss, but I would just say to you that it's an obvious thing, so why not state it? It's there for police. If you're looking at it as an essential public service, it would only seem appropriate to state the obvious. It appears not really to be an issue.

**Mr Ramsay:** I'm concerned about the deterioration of the goodwill that I think firefighters have always had with their fire departments and the municipalities. Unlike

the police who have sometimes gone on strike, they've never done that. That's just what's so discouraging about this, that it's this slap in the face to people who have said they would never do it and have never threatened to do it.

**The Chair:** Thank you very much, Mr Ramsay. Our time this morning has elapsed. Fire marshal and staff, thank you very much for your attendance here today.

We are adjourning until 1:30 this afternoon in the same room. This room could not necessarily be secured, so I'd ask you to remove anything that should be removed.

*The committee recessed from 1231 to 1338.*

**The Chair:** This is the continuation of the hearings on Bill 84.

**Mr Ramsay:** Chair, on a point of order: I was wondering, with the situation here, is there any other remedy available to us to try to alleviate this overflow situation? I understand we have a committee room downstairs.

**The Chair:** We have committee room 2 with an audio feed only, plus coffee is served downstairs. There were individuals there this morning.

**Mr Ramsay:** And you're saying there's a problem —

**Mr Kormos:** Quorum, Chair. Quorum.

**The Chair:** Mr Kormos has called a quorum, which simply means we cannot proceed until a quorum is present.

**Mr Kormos:** And there is one now.

**The Chair:** Okay, we'll proceed, then.

**Mr Ramsay:** To continue with my point of order, could you put on the record what the problem is with us trying to use the resources of 151? Could I possibly move that the committee request the finance committee to trade places or go to another committee room so we could go to 151? That would provide a visual feed besides an audio feed, which might be more satisfactory to people and allow people to follow the hearings in other locations throughout Queen's Park that way.

**The Chair:** Mr Ramsay, pursuant to the committee's request, on a motion made by Mr Kormos, I did speak to Mr Chudleigh, who chairs the finance committee, on two occasions. In that the finance committee had booked meeting room 151 prior to this committee, he did not feel he could relinquish it, because they are hearing the Assessment Act. If you wish me to approach him again, I can do so, but it would only be for tomorrow.

**Mr Kormos:** On a similar point of order, Chair: It's not a matter of relinquishing because of having booked earlier. As I told you, I spoke with the clerk's office and the clerk explained to me the process: One doesn't book a room; one is merely assigned a room. Obviously, this committee picked a short straw.

Having said that and recognizing that these are public hearings, that the public is here in numbers in which they aren't present in 151, the Amethyst Room, it's imperative that if these hearings — the government is trying to do some spin-doctoring on the consultation stuff. Mr Klees very articulately this morning, as did Mr Tilson, talked about being eager to hear from these and other presenters. Then surely Mr Chudleigh, your colleague in the Conservative caucus, should be impressed with the fact that it's more appropriate for these hearings to be in the Amethyst Room so that people can watch the proceedings in an



adjoining room, because it is televised out of Amethyst, when in the Amethyst Room there aren't the same numbers of people and not the same need to accommodate folks. I think it's imperative that these folks be accommodated in a real way rather than being forced out in the hallway where they can't hear and they can't see. This isn't much of a public hearing when they can't hear and they can't see.

**Mr Klees:** For the record, I want to assure Mr Kormos that members of the government on this committee share his concerns and did, at the very outset, support unanimously the request to have this hearing in the Amethyst Room. I'd just like to say as well, particularly given the experience of today, that we make another attempt to have the facilities changed. I agree that it's obviously too late for today, but if we can accommodate that for tomorrow, I would certainly support that.

**The Chair:** Is that the unanimous wish of the committee, that I approach the Chairman of the finance committee once again? Fine. I will try to arrange that for tomorrow.

#### ONTARIO ASSOCIATION OF FIRE CHIEFS

**The Chair:** I call the first presenters, the Ontario Association of Fire Chiefs, Fire Chief Harold Tulk. Welcome, sir. To yourselves and to all presenters we have allocated only 15 minutes, which is really not adequate; however, to ensure that everyone has an opportunity to make a presentation, we have had to limit it to 15 minutes. It's my job to ensure that ruling is upheld and I will do so. I'd ask you to proceed.

**Mr Harold Tulk:** My name is Harold Tulk. I am president of the Ontario Association of Fire Chiefs. Fire Chief Tom Powell is the legislative committee chair of the Ontario Association of Fire Chiefs from the city of Scarborough.

What I will do is cover the position paper, as printed, on Bill 84. Then we have provided some support documentation that you have on the table, and we will speak to that if time permits; in the event that time does not permit, we wanted to make sure you had support documentation that was developed in support of this position paper for your reference.

Who are we? The Ontario Association of Fire Chiefs was incorporated into a not-for-profit organization on September 14, 1973. The founding objectives of the association are directed towards public safety. We represent full-time and volunteer administration of the Ontario fire service from a firefighting management perspective.

The objectives of our association are: to promote interest in and the study of fire services for the greater protection of life and property from fire; to engage in research and the study of problems affecting fire services at the municipal, regional and provincial levels; to establish, support and aid in the establishment of programs, surveys and other activities which contribute to the advancement and development of fire services generally; to encourage cooperation with organizations in developing and stimulating public education in fire prevention for the preservation of life and property from

the destruction of fire; to propose and support legislation at all levels of government for the advancement and development of the fire services.

**Membership in our association:** The founding members of this association, in developing the above objectives, established a fundamental reason and purpose of the association that is as appropriate today as it was when it was established in 1973. Currently the Ontario Association of Fire Chiefs has approximately 650 members, representing over 700 fire service organizations across the province. The membership is made up of 33 full-time departments, protecting approximately 55% of Ontario's population, 127 composite — a combination of full-time and volunteer members — fire departments protecting approximately 30% of the population and 486 volunteer departments protecting approximately 15% of the population.

We've prepared an overview of the legislation. We wanted to speak to principles rather than specifics.

It is the view of the OAFIC that the proposed legislation contained in Bill 84 is a positive step forward in public fire safety. The fire chiefs have been calling for changes to the outdated fire service legislation for many years to reflect the changing face of the fire service. Bill 84 provides the flexibility for municipalities to deliver the appropriate level of fire prevention and protection in each community.

The proposed legislation is directed towards fire prevention and public education. The OAFIC believes this is a positive move towards improved public safety for all Ontario residents. We encourage the government to retain the need for mandatory services through the process of legislative debate.

The OAFIC has consistently called for flexibility to establish a strong management team to take the fire service into the future. The provision of an enhanced management team within the legislation is another positive step. We also support the need for exclusions from bargaining units of all positions for which a management responsibility can be demonstrated.

We urge the provincial government to be firm on the concepts within the proposed legislation, as they are in our opinion fair and reasonable to all the parties.

**Responsibility for fire protection services:** The OAFIC supports the concept of mandatory fire services in the province of Ontario as it relates directly to the issue of public safety. Bill 84 contains requirements for municipalities to establish fire prevention and public education programs. It is understood that the majority of municipalities already provide these essential services. Confirming in law what is a practice among municipalities is a positive endorsement and appropriate leadership in the development of public fire safety policy.

The provision of fire suppression services as an optional program gives us some concern; however, the proposed review process regarding the delivery of municipal fire services will ensure that public safety is not compromised. Specifically, in that sentence we're speaking to the fact that the fire marshal has the ability to monitor and evaluate fire protection at the municipal level. Given the fact that we are not seeing as strong language in the mandatory sense, the fact that the fire



marshal does have the ability to evaluate and review gave us some comfort.

**Fire prevention programs:** It is the view of the OAFC that the introduction of mandatory fire safety programs is a proactive approach to public safety. We believe that fire prevention is the key to reducing loss of life and property in the province of Ontario.

Fire prevention services are best provided by personnel with fire prevention and protection experience. The fire service has a full-time and volunteer resource that is currently delivering these services. The emphasis of the legislation reinforces the current fire service practices and will enhance the concept of public fire safety.

We support the proposed legislation in this regard and encourage a firm commitment to the concept of public fire safety and prevention programs from all the stakeholders in the fire service. That's a mission statement supporting the retention of the Ontario fire code with the fire service. The public have a relationship and an understanding in terms of perception with the fire service, the vehicle, the uniforms they wear, in terms of fire safety.

**Public education programs:** Education of the public will enhance fire prevention programs and will raise the profile of fire risks and the dangers of fire. Recognizing dangerous fire situations and having the knowledge to deal with those dangers will help reduce the incidence of fires and save lives. We support the initiative of the public education component in the proposed legislation.

1350

**The definition of a fire chief:** The need to define the position of a fire chief in law has been a concern of our association for some time. We have recognized, in this day and age of liability and responsibility, that this definition is essential. The fire chief is the individual who has the expertise to provide professional advice on fire-related matters to the municipal council.

Ensuring that the appropriate duties and responsibilities are outlined and provided in law will protect the public and the fire chief. The explanation of authority, duties and responsibilities will also improve the ability of the fire chief to manage the delivery of fire protection and prevention programs for a municipality.

The definition of a fire chief as proposed in Bill 84 recognizes that every municipality which has a fire department should have a fire chief. The OAFC recognizes that some jurisdictions have an elaborate reporting structure, which may include CAOs and commissioners, while others are basic in terms of reporting structure, with the fire chief reporting directly to the council. This definition provides the desired flexibility requested by municipalities and ensures that accountability and responsibility are balanced between policy development and ensuring that those public safety policies are administered and delivered in the best interests of public safety. The members of the OAFC have consistently requested this change in the interest of public safety. We very strongly urge the government to incorporate the definition and reporting process in the final legislation.

I want to move off the brief for a moment because I heard the minister's comments this morning that one of the areas that may be adjusted was the definition of a fire chief. The fact, as we see it, is that the need for a

reporting relationship between the fire chief and council is essential to the further proper and reasonable development of public safety policy in a community. We understand there are administrative processes, but there's also an operational application, and you have to balance the interests between the two.

We support the definition as printed. We do not want to see the definition altered. The issue here is making sure that the fire chief has access to council, to let him know the operational ramifications of the policies that are developed in public safety at the political level. There is an administrative process in some communities and not in others. It is inconsistent because it's based on the size of the community.

This definition has flexibility. We feel it maintains the continuity in the reporting continuum. We would urge the legislative group to recognize that the fire chief needs to maintain access to council. That's imperative. If council wants to know the ramifications of those policies in terms of operational application, it's imperative that they speak to the person who understands the operational side of the fire service. That's the position.

**Firefighters' employment and labour relations:** The majority of issues under part IX are not issues raised by the fire chiefs. However, we wish to comment on the following — and I want to qualify it. As I said earlier when I described what the Ontario Association of Fire Chiefs is, as chartered in 1973, we deal with public safety, we deal with organizational matters that affect public safety. One of the issues that we felt was paramount during the fire services review was the management exclusion issue, so we've commented on that and not commented on any other area.

The OAFC has consistently called for additional management exclusions from firefighter associations. The existing legislation provides for only two managers to be excluded from the association — in the brief it says "union," and we stand corrected and apologize; it should be "association" — the fire chief and the deputy fire chief. Obviously, with only two management exclusions in the department, the ratio of managers to association positions is inconsistent with good management and current business practices.

The OAFC supports the concept of a management team as proposed in Bill 84, including the managerial exclusions concept under the Labour Relations Act. The members of the OAFC have consistently requested this change in the interest of good management and current business practices. We urge the government to incorporate the management team and the management exclusions in the final process.

**The conclusion:** The proposed legislation will provide through its direction and guidance an effective fire protection and fire prevention service for all of Ontario. We support the concepts and the principles within Bill 84. I must remind you, there are 13 parts to the legislation. There was a technical overview provided by the fire marshal. We are concerned with the public safety component of Bill 84. We believe it represents the future of the fire service in terms of dealing in a fair way with the citizens we serve and the people who must provide those services.



The members of the Ontario Association of Fire Chiefs believe this legislation will enable an efficient and effective delivery of fire protection and prevention services into the next decade and beyond. We urge the government to adopt the legislation.

Now, before I say I've finished, we put a support document in there. It's the fire chief standard and the deputy fire chief standard. The fire marshal spoke earlier today. This standard was developed with participants across Ontario. The document describes the process. It describes the duties and the skills that a fire chief must have to function; it also describes what a deputy fire chief must have in terms of the operational skills and the responsibilities they have to assume. One document is a companion to the other and adds emphasis to the need for future changes.

When Bill 84 was released we conducted a number of membership meetings across the province of Ontario. We have summarized the concerns. For your benefit, these were circulated to the membership — a little later than some of them would have liked, but they were circulated. All the concerns of the members were listed and expressed in summary note form, and this is on Bill 84 in particular.

There's a document that also supports the need — it was developed by the Ontario municipal fire prevention officers and the Ontario Association of Fire Chiefs to support the maintenance of the fire code in this province. It's an essential life safety document and it is starting to demonstrate some very proactive behaviour in terms of fire prevention. Why the fire code should stay with the fire service is described inside of that document as well, in some detail.

When the fire marshal's report was released, the OAFB developed 12 summary recommendations. We put those in for the committee's reference as well.

Last but not least, we started to experience, prior to the issue of Bill 84 and then subsequent to it, the elimination of deputy fire chiefs in Ontario. This gave us grave concern. We consulted with our legal people and we developed a public information release. Inside of that document are some valuable background data as well.

But having said all of that, we thank you very much for the opportunity to be here. If there are any opportunities, we will answer any questions you may have.

**The Chair:** There really isn't a lot of time, about 30 seconds per caucus.

**Mr Klees:** Thank you for your presentation. I'd like to very quickly move to the management exclusions component of your presentation. As the minister indicated this morning, we're prepared to take a look at some red-circling of employees around this issue because, as you know, there is some opposition to simply unilaterally designating people from management and excluding them from the bargaining unit.

I've also had representations to me personally. For example, in one case it happened to be a captain who said, "If you're going to be making any exclusions, will you allow me as a captain to say that I don't want to be part of that management team that is going to then be excluded?"

I'd like your views on whether that's workable and if not, why not.

**Mr Tulk:** As a fire chief looking at fire department organization, the OAFB examined the issue of right of refusal, successor rights etc, and we will be positioning ourselves to be able to demonstrate that we need managers to effectively manage a fire department. If the person opts to be part of that management team or not part of that management team, that will probably be left to some form of labour relations process.

**Mr Ramsay:** Thank you, Chief, for your presentation. I wanted to ask you about the provision for call-in firefighters in this bill. The bill will allow the use of call-in firefighters, it says, in a major emergency, but the bill doesn't define what a major emergency is. Really, that would allow a community to develop a call-in firefighting system if they wished. As a fire chief, do you think that's an effective way to manage a fire department?

**Mr Tulk:** Most of the jurisdictions now have some arrangement for calling in firefighters that was properly agreed upon at the local community level, based on those circumstances. What is a major emergency in one community may differ greatly from another in terms of interpretation and the impact on that community. It could be a local community decision. Our sense is there's more flexibility for us to put it forward in the new legislation. In the old one it was very restrictive. If we needed one we had to call everybody back when we declared an emergency, so this offers more flexibility.

**The Chair:** Thank you very much, gentlemen, for your presentation.

1400

#### ONTARIO PROFESSIONAL FIRE FIGHTERS ASSOCIATION PROVINCIAL FEDERATION OF ONTARIO FIRE FIGHTERS

**The Chair:** Our next presenters scheduled for 1:45 and 2 o'clock have cooperated. Mr Jim Lee, the Ontario Professional Fire Fighters Association, and Mr Bruce Carpenter, president of the Provincial Federation of Ontario Fire Fighters, will combine their 15 minutes to make a total of one half-hour and make their presentation consecutively together. You should have the written presentation of both associations before you. Gentlemen, welcome. I'd ask you to proceed.

**Mr Jim Lee:** Mr Chairman, members of the committee, thank you for the opportunity to speak to you today on this very important matter. My name is Jim Lee and I'm the president of the Ontario Professional Fire Fighters Association. I've been a firefighter for 25 years in the city of North York. With me at the table is Bruce Carpenter, president of the Provincial Federation of Ontario Fire Fighters, and he fights fires in the city of St Catharines.

I've come to this standing committee with a very simple request: Please listen to the people of Ontario.

People from across this province, from Windsor to Hawkesbury and from Armstrong down to Leamington, have spoken out against this bill. They have lobbied their MPPs, mailed in postcards, signed petitions and phoned



our offices to ask that this bill be amended. They want you to eliminate the threat to fire safety for them and for their families; 200,000 Ontarians have signed petitions to express their opposition to Bill 84. They are telling you:

"Firefighters need speed, experience and teamwork to save lives. I oppose any legislation that could undermine the work of my local firefighters and jeopardize fire safety in my community. Please listen to professional firefighters and amend Bill 84 to eliminate the threat to fire safety."

On behalf of each of the communities that have spoken out against this bill, a citizen from that region is joining me today to present the petitions to you. Bruce and I would like to take a moment to introduce them and allow them to present their petitions.

Sherry Lee lives in Mississauga, where she does charitable work for children with disabilities. She's concerned about the future level of safety for her and her community. She is here to present petitions on behalf of the people who live in the GTA.

**Mr Bruce Carpenter:** Cauleen Viscoff is a self-employed businesswoman from Peterborough who understands that a community with a second-rate fire service is a very poor business environment. She is here to present petitions on behalf of the people of central and northern Ontario.

**Mr Lee:** Carolynn Ioanonna operates a day care in Niagara Falls. She is concerned that Bill 84 will lower the protection that people like her rely on. She is here to present petitions on behalf of the people who live in the Niagara Peninsula and southwestern Ontario.

**Mr Carpenter:** Ron Phillips is an active firefighter in Ottawa. He recognizes that disrupting the firefighting system is a danger to him and to the public. He is here to present petitions on behalf of the people who live in eastern Ontario.

**Mr Lee:** We are here today with those citizens, not just as the representatives of firefighters across Ontario, but as the representatives of the people of Whitby, who ask you to amend Bill 84.

**Mr Carpenter:** The people of Chatham ask you to amend Bill 84.

**Mr Lee:** The people of North Bay ask you to amend Bill 84.

**Mr Carpenter:** The people of Brockville ask you to amend Bill 84.

**Mr Lee:** The people of Thunder Bay ask you to amend Bill 84.

**Mr Carpenter:** The people of Niagara Falls ask you to amend Bill 84.

**Mr Lee:** The people of Barrie ask you to amend Bill 84.

**Mr Carpenter:** The people of Woodstock ask you to amend Bill 84.

**Mr Lee:** The people of Cumberland ask you to amend Bill 84.

**Mr Carpenter:** The people of Kitchener ask you to amend Bill 84.

**Mr Lee:** The people of Timmins ask you to amend Bill 84.

**Mr Carpenter:** The people of Brampton ask you to amend Bill 84.

**Mr Lee:** The people of Collingwood ask you to amend Bill 84.

**Mr Carpenter:** The people of Sudbury ask you to amend Bill 84.

**Mr Lee:** The people of Nepean ask you to amend Bill 84.

**Mr Carpenter:** The people of Kenora ask you to amend Bill 84.

**Mr Lee:** The people of Hamilton ask you to amend Bill 84.

**Mr Carpenter:** The people of Innisfil ask you to amend Bill 84.

**Mr Lee:** The people of Mississauga ask you to amend Bill 84.

**Mr Carpenter:** The people of Owen Sound ask you to amend Bill 84.

**Mr Lee:** The people of Brantford ask you to amend Bill 84.

**Mr Carpenter:** The people of Cambridge ask you to amend Bill 84.

**Mr Lee:** The people of Etobicoke ask you to amend Bill 84.

**Mr Carpenter:** The people of Elliot Lake ask you to amend Bill 84.

**Mr Lee:** The people of Fort Frances ask you to amend Bill 84.

**Mr Carpenter:** The people of Windsor ask you to amend Bill 84.

**Mr Lee:** The people of St Thomas ask you to amend Bill 84.

**Mr Carpenter:** The people of Toronto ask you to amend Bill 84.

**Mr Lee:** The people of Waterloo ask you to amend Bill 84.

**Mr Carpenter:** The people of London ask you to amend Bill 84.

**Mr Lee:** The people of North York ask you to amend Bill 84.

**Mr Carpenter:** The people of Belleville ask you to amend Bill 84.

**Mr Lee:** The people of Wasaga Beach ask you to amend Bill 84.

**Mr Carpenter:** The people of St Catharines ask you to amend Bill 84.

**Mr Lee:** The people of Midland ask you to amend Bill 84.

**Mr Carpenter:** The people of Gananoque ask you to amend Bill 84.

**Mr Lee:** The people of Scarborough ask you to amend Bill 84.

**Mr Carpenter:** The people of Ottawa ask you to amend Bill 84.

**Mr Lee:** The people of Kingston ask you to amend Bill 84.

**Mr Carpenter:** The people of Keswick ask you to amend Bill 84.

**Mr Lee:** The people of Newmarket ask you to amend Bill 84.

**Mr Carpenter:** The people of Pickering ask you to amend Bill 84.

**Mr Lee:** The people of Ajax ask you to amend Bill 84.

**Mr Carpenter:** The people of Clarington ask you to amend Bill 84.

**Mr Lee:** The people of Port Colborne ask you to amend Bill 84.

**Mr Carpenter:** The people of LaSalle ask you to amend Bill 84.

**Mr Lee:** The people of Oshawa ask you to amend Bill 84.

**Mr Carpenter:** The people of Peterborough ask you to amend Bill 84.

**Mr Lee:** The people of Wallaceburg ask you to amend Bill 84.

**Mr Carpenter:** The people of Lindsay ask you to amend Bill 84.

**Mr Lee:** The people of Guelph ask you to amend Bill 84.

**Mr Carpenter:** The people of Pembroke ask you to amend Bill 84.

**Mr Lee:** The people of Burlington ask you to amend Bill 84.

**Mr Carpenter:** The people of Thorold ask you to amend Bill 84.

**Mr Lee:** The people of Richmond Hill ask you to amend Bill 84.

**Mr Carpenter:** The people of Kanata ask you to amend Bill 84.

**Mr Lee:** The people of Sarnia ask you to amend Bill 84. The people of Oakville ask you to amend Bill 84.

**Mr Carpenter:** The people of Smith Falls ask you to amend Bill 84.

**Mr Lee:** The people of Welland ask you to amend Bill 84.

**Mr Kormos:** Damn right.

**Mr Lee:** Here we have additional thousands of names that we received today that we would ask to be entered as petitions on behalf of Bill 84. We didn't have time to box them.

The people of Ontario ask you to amend Bill 84. On their behalf and on behalf of professional firefighters across this province, I urge you to follow their wishes and adopt significant amendments to this bill.

The 200,000 petitions that Bruce and I have just presented talk about speed, experience and teamwork. They are critical elements in the work we do as firefighters.

Speed matters in firefighting more than any other profession. If you don't have enough firefighters and equipment there in the first eight minutes, the fire will flash over. After that the risk of injury goes up ninefold. After 12 minutes, your chances of a successful rescue are only 46%. Three minutes later those odds have dropped to 5%.

But speed matters in more than just fighting fires. Firefighters are called on for other emergency duties; 60% of the work firefighters do is in non-fire-related emergencies. When someone is lying on the pavement flat-lined, you don't have a couple of extra minutes to get the defibrillation machine. Every second you lose lowers the odds of pulling that person back. When hazardous materials spills happen, you have to get containment now or risk getting toxins in the water supply or airborne contaminants spreading across residential communities.

Firefighting isn't the same as other professions. You can't wait for backup; you can't hold on while reinforce-

ments arrive. Speed matters. Speed is what saves lives. You don't get second chances when you're fighting fires.

When coroners' juries look at the situations where lives were lost and try to prevent that from happening again, there's one thing they call for over and over: response times. Get the firefighters there, get them there fast, and get them there in sufficient numbers to do the job. I'm asking you to listen to those men and women and recognize beyond any doubt that response time is critical. Speed saves lives.

**1410**

Experience matters. I don't know how many of the members of this committee have ever fought an apartment fire. Let me tell you what you'd see: nothing, not a thing. The smoke is so thick you can't see your hand in front of your face. The smoke is billowing up to the top of the building and accumulating there. But the people fleeing the fire are running up toward the smoke and the smoke is what's going to kill them.

Meanwhile, you're trying to get inside, because if you start fighting that fire from the outside of the building, you push the fire back into the building and it spreads and finds fresh fuel and injures more people. So you've got to get inside the building to fight that fire. But to do that you have to know how the building is laid out, which hallway leads where, which shaft goes to which storage room and what's kept there. There has to be a pre-fire plan in place. If you stop to figure it all out after you get to the fire, the fire will be out of control before you begin.

Once you know all that, you've got to find the fire. The person who reported the smoke doesn't know where the fire is; they just saw smoke. And you can't see because the smoke is so thick — and it's hot. Every minute you wait, the fire is getting twice as big and twice as hard to fight, until you hit that eight-minute mark and, boom, it flashes over and you've got a whole different problem on your hands.

That's a little of what you need to know to fight an apartment fire.

Shall we talk about a Hazmat spill now? Or how about a fast water rescue? Or how about evacuating children from a burning house? How many people at this table can mount an attack on a house fire with people inside before that fire gets out of control? I bet the answer is two: Bruce and myself. That's not because we're special, it's just because we know how. Don't ask us to go and face 40,000 angry voters in your riding at election time; we can't do that. But we have the experience needed to be effective in an emergency situation. We also have the good sense to know that people without our level of training and experience pose a threat to public safety.

Experience matters. Experience saves lives. Teamwork matters. Inside that burning building you're depending on your partner to know where you are every minute and get you out if something goes wrong. But there's more smoke than you can imagine. You can't see anything. You have to just know where your partner's going to be, and your partner has to know the same thing about you.

That's not a relationship that's automatic. It's developed over time with someone who's done the same kinds of drills you have and worked the same job and faced the



same kinds of experiences. When even a minute can cost lives, you're not talking about thinking things through; your responses have to be almost instinctive. And it's not just your instincts; it's the instincts of everyone on the team that you have to count on.

Throwing a part-timer into that mix isn't just inconvenient; it's dangerous.

Teamwork matters. Teamwork saves lives. I can't stress these points enough. You can't tinker with the firefighting system we rely on without having serious consequences. Unfortunately, Bill 84 does a lot of tinkering, and it doesn't do it very well. It's obvious this bill was written in a hurry; there are technical mistakes all through the bill. Along with those technical mistakes there are some practical mistakes. Bill 84 makes changes to the firefighting system that sound fine on paper, but in practice they would be disastrous.

The government says they want this to be the best fire safety legislation in the country. Right now it isn't. The bill will cut corners at the expense of critical services. Even Sally Barnes, the Tory candidate from the last election and former aide to Bill Davis, had only one thing to say about Bill 84 in her last newsletter: that Bill 84 would cut costs. She's not calling it the best fire safety legislation in the country.

Bringing in call-backs and part-timers and privatization puts the public at risk and undermines the firefighting system people have come to rely on. The people of Ontario, the 200,000 who signed petitions and the thousands who have phoned our offices, are counting on you to ensure that they have the protection they need in an emergency. I know you won't let them down.

**Mr Carpenter:** Mr Chairman, members of the committee, my name is Bruce Carpenter. I'm President of the Provincial Federation of Ontario Fire Fighters, which represents over 4,500 professional firefighters across Ontario. With me at the table is Jim Lee, President of the Ontario Professional Fire Fighters Association, which represents roughly 4,500 firefighters in Ontario.

Jim has touched briefly on some of the reasons that people are concerned about this bill. I want to take a moment to address those concerns and what can be done to fix the problems.

Bill 84 was written in a hurry. That's clear to anyone who has read the bill. When you look at some of the sections, it's obvious that it was thrown together in a rush. There are no enforcement mechanisms for the rules set out in the bill. There's no transition process to manage the changeover between the old and the new acts. There are no provisions for what happens to procedures that are already under way in the old system. There's even a section that refers to pension legislation that's been gone for a decade.

There are technical mistakes all through the bill. That's unfortunate. The government has said repeatedly that they intend to put forward the best fire safety legislation in the country. It's a good intention. It's an intention that can still be fulfilled if you can address some of the following problems in the bill.

(1) Bill 84 adds bureaucracy. The management exclusions provision of Bill 84 sacrifices firefighters and adds bureaucrats. The bill adds as many bureaucrats as the

labour board will allow. That could take firefighters off the line where they are needed and create an overloaded bureaucracy — but that's not all. The exclusion process will require lengthy litigation before the labour board, which will be time-consuming and expensive for both sides.

I and my colleagues recognize that some groups strongly favour more bureaucracy in the fire service. We don't think that's right, but if you are going to do it, don't set up a system like the one in Bill 84, which will have long appeals to the labour board. If you have to make changes, choose a system like the fire marshal proposed: Set a specific number of managers based on the size of the department and set a firm limit.

(2) Bill 84 doesn't provide for successor rights. Without successor rights, any amalgamation, privatization or reorganization could reduce the standards of firefighting in our community in a single stroke. The new fire department wouldn't be bound to meet the standards currently negotiated. They could employ fewer firefighters, understaff the fire halls and lower levels of training and experience.

Other municipal employees are entitled to successor rights, but for some reason Bill 84 assumes that sustaining arrangements with parking attendants is more important than maintaining the arrangements with firefighters.

I can't see any reason why firefighters are denied successor rights when other municipal employees have them. If the arrangements with clerical staff are important enough to be kept in place after an amalgamation, isn't the firefighting system important enough to keep? We strongly recommend that you provide firefighters with the same successor rights other municipal employees have.

(3) Bill 84 undermines safe staffing levels. The new call-back provisions of Bill 84 undermine the province's professed commitment to fire safety. Call-backs allow fire departments to drop staffing levels below a viable standard and bring firefighters in after an emergency occurs. That's an efficient system for managing paper flow or widgets, but not for firefighting. Call-back systems mean slower response times and a greater loss of life and property.

We recommend that you leave the call-back system the way it is, allowing each municipality to negotiate a call-back system that protects it in a major emergency. Because the system is negotiated, it can't be used to under-staff emergency vehicles. That system is working. Why change it now?

#### 1420

(4) Part-time firefighters undermine firefighter safety. The use of part-time firefighters, which this bill promotes, works in concert with the call-back system to encourage municipalities to understaff firehalls. Part-time firefighters are used to shore up understaffed fire departments in an emergency, but part-time staff don't participate in pre-fire planning, training exercises or equipment maintenance. That undermines the effectiveness of fire protection.

That was the conclusion of the study done by Durham, North Carolina, when they chose to abandon their part-time firefighting system. Despite having used it for years, Durham realized that part-time help isn't what you need when you're trying to protect people's lives. The legisla-



tion must not encourage the use of part-time firefighters. Part-time employees won't provide the same level of service and the public doesn't feel they can rely on part-timers to do the job.

(5) Bill 84 would make hours of work non-negotiable. That means firefighters don't have the basic bargaining rights everyone else in Ontario has. I assume this was one of the errors in drafting the bill. It's unreasonable to single out firefighters for this kind of treatment.

As Fire Chief Speed of the North York Fire Department states in his letter of March 18, 1997, to the clerk of this committee, "Firefighters should maintain their right to negotiate their hours of work." We believe that firefighters should be treated the same as every other worker in Ontario. Let us negotiate our hours of work with the municipality.

(6) Bill 84 disrupts the firefighters' associations. Bill 84 could result in firefighters' associations losing their right to represent their members. The bill would impose a union certification system on firefighters' associations. There is no certification system for police, and Bill 105 maintained that policy. The firefighters' associations have never had a strike or a disruption, and we've made a commitment never to do that.

Why threaten the stability of firefighters' associations, and throw us all into a union drive that will cost money and create uncertainty? What can be gained by that? Keep the current system in place.

(7) Bill 84 disrupts the labour relations system. The bill fails in a number of ways to address basic labour relations issues. The transition from the current system is fundamentally flawed and won't work. It creates uncertainty and instability in the workplace. There are no enforcement provisions. The current system works. It is being replaced by a system that doesn't work.

We recommend that the elements of the bill dealing with transition and enforcement be totally rewritten. I think everyone recognizes that they were put together in something of a hurry and that they need a lot of work.

(8) Bill 84 raises the threat of privatization. There are too many horror stories about private fire companies in the US. Why do we want to bring that level of service to our community when our existing municipal departments are doing a good job?

The bill specifically accommodates privatization and has made it a real prospect here. Having done that, there's a need to step in and prevent that from happening. We don't want to face the kind of service that private fire companies have shown in the past. You need a clause in the bill that prohibits the privatization of fire departments.

As members of the committee, you have before you a submission from Scarborough Fire Chief Powell. Chief Powell clearly opposes the provisions of the bill which would permit privatization of fire emergency services.

(9) Bill 84 bans strikes and lockouts. The professional firefighters' associations have never had a strike. Our constitutions specifically forbid a strike. We have no intention of going on strike now or ever and, frankly, many of our members are insulted that this clause is in the bill. However, we are prepared to accept a no-strike clause in the interests of accommodating those groups who feel that they need that assurance.

Changes along these lines would go a long way towards eliminating the problems that Bill 84 creates for the firefighting system and for fire safety. I hope you will look closely at the recommendations we have put before you.

For these reasons, 200,000 people — firefighters, fire chiefs, business people, citizens, even government backbenchers — have signed this petition, recognizing that Bill 84 needs to be amended if fire safety is going to be protected in their communities. The people of Ontario ask you to take a look at the bill and make the changes that will keep them safe. For the sake of all of our communities, I urge you to listen to them.

**Mr Klees:** Thank you for your presentation. I have had an opportunity to read your petition, and for the record, I just want to say to you that I have no problem signing this either, because the very fact that you're here —

**Mr Lee:** We've got one right here you can sign.

**Mr Klees:** Well, I'm happy to sign it, because we too are very interested in ensuring that safety is uppermost in the province, and we recognize the contribution that you make. The very fact that we're in this forum indicates that the government is prepared to listen, that we're looking for your input. We may not agree on all of the changes that you are suggesting, but certainly I think you heard from the minister this morning that we're here to listen to the concerns you may have regarding the legislation specifically. There will be some changes, and we thank you for your suggestions.

**Mr Ramsay:** Thank you very much. Either one of you could address this. I'm just really wondering, why would a government in its haste to try to save money really want to gamble with fire safety and therefore the lives of Ontarians? What's behind this? Why would a government do this when we have good fire protection in this province?

**Mr Lee:** I think the Conservative government has made a commitment to the Association of Municipalities of Ontario to give them the tools to reduce costs in the municipality, and the municipalities are going to do that through or on the backs of the fire service. They're going to reduce the level of fire service to try and save money in the province, and we don't think it's right.

**Mr Ramsay:** The other thing is, I'm wondering why this government doesn't have the goodwill, especially when in your presentation here I think you've been very conciliatory to say you would accept a no-strike clause, to sit down with you and work out what the labour relation agreement should be between firefighters and the government.

**Mr Carpenter:** It's a good question. We're perfectly willing to sit down with this government at any time, and we have said that from the beginning. It's very unfortunate that this legislation was put together with such haste that we're facing the legislation we are now, with no input whatsoever from my organization or from Jim's organization.

**Mr Kormos:** Thank you, people. You were here this morning when the Solicitor General was making his comments, and you notice he never referred to either the association or the federation as "the association" and "the federation"; it was "the union." It could have been an accident —



**Mr Klees:** On a point of order, Mr Chair.

**Mr Kormos:** — but I can't help but think that the \$1,000-a-day spin doctors —

**The Chair:** I'm sorry, Mr Kormos. We have a point of order.

**Mr Kormos:** On my time?

**The Chair:** No. We'll take care of it.

**Mr Klees:** I just would like this matter clarified. Are the federation and the association unions or not? Could we get clarification of that?

**Mr Kormos:** Maybe we could, but we've got question time.

You heard the speech that was read by the Solicitor General, and I'm interested in particular because the government has been very defensive about the prospect of privatization, and you also heard all sorts of almost pettifoggery around the issue of whether or not the bill opens the door. But the absence of a provision for successor rights in conjunction with everything else, does that force one to arrive at the irresistible conclusion? All these things together — there are no successor rights, the expanded definition of "employer" — when you add all those up, does it lead to anything other than the prospect of privatization or at least an open door to it? There may be other angles to it. Go ahead.

**Mr Lee:** It definitely opens up the door to privatization in the province with regard to delivery of the fire service. We only have to look at what happened in Waterloo on January 21. Rural/ Metro went in there and put a proposal together to actually try and privatize the fire service, and we've heard from a number of backbench government MPPs and cabinet ministers that this will never happen in Ontario. I don't believe it. If they believe it will never happen, I think they should be putting it in the legislation to not allow it to happen. It shouldn't happen in the province of Ontario.

**The Chair:** Mr Lee and Mr Carpenter, thank you for your excellent presentation.

I'll just make an announcement. We have a point of order from Mr Klees, and we're going to take a five-minute adjournment after that in order to have the clerk remove the petitions to the clerk's office.

**Mr Kormos:** There are a lot of petitions. It might take more than five minutes.

**Mr Klees:** Mr Chair, if we could have clarification as to whether the federation and association are in fact unions or not. Could you clarify that for us, please?

**The Chair:** Excuse me. I don't know whether it's proper to ask these gentlemen those questions. Our time for questions of these gentlemen is up. That will be referred to the ministry staff, and they will get you an answer on that, Mr Klees.

**Mr Klees:** I would appreciate that.

**The Chair:** I know these gentlemen have the answer, but it isn't a proper question to them at this stage.

*The committee recessed from 1430 to 1440.*

#### EAST YORK FIRE FIGHTERS' ASSOCIATION

**The Chair:** If I may call the meeting to order once again, I apologize, ladies and gentlemen, that we're somewhat behind schedule. We'll try to make it up along

the way. Our next presentation is the East York Fire Fighters' Association, Michael Madden, who I assume is the president. You have someone else with you, Mr Madden, and you might identify him for the purpose of Hansard in the event he is going to take part in the presentation. Welcome, gentlemen. Please proceed.

**Mr Michael Madden:** Thank you, Mr Chairman, members. This is past president Mac Sheahan, a firefighter of 32 years, a captain with the East York fire department and also the secretary of our association.

As for my part of the presentation, I'll say I'm not a polished speaker; I'm just a firefighter on the back of a truck. Actually, I worked this morning and got my own time off to come down here, so I missed the fire marshal's presentation, which I hear was fairly good.

The main point I wanted to speak on was bargaining of hours, or the lack of the right to bargain for hours. I took this job with the conception that it was a democracy, that we had the right to negotiate our hours and we wouldn't be forced to work 24-hour shifts, that we could negotiate with the municipality anything we really wanted to get.

I think it's going to be a detriment to my family life and may even force me out of the fire service and into another career if that's what it comes to. That's really the only point I wanted to make here. I'll turn it over to Brother Mac Sheahan.

**Mr Mac Sheahan:** Mr Chair, members of the committee, the first point I wish to comment on is the remark of the honourable minister in his introduction of the Fire Protection and Prevention Act on October 16, 1996: "Previous governments used these consultations as an excuse for inaction. They examined the issue to death, and then backed away from it. They had the opportunity to reform the fire service. They failed to act."

During my career with the fire department, I too have realized that these consultations to which the minister referred have been time-consuming and have not shown any resolve. However, I do not believe that this is the fault of the firefighters' representatives. Time after time these representatives have left discussions believing that there has been a resolve, only to return at the next scheduled meeting and find that the representatives of other stakeholders were not willing to endorse the agreement. With the introduction of this bill firefighters, in my opinion, will suffer due to heavier workloads, increased hours of work, increased costs during labour disputes, uncertainty as to crew size and backup and the threat of privatization.

This bill refers to strikes, lockouts and exclusions from the bargaining unit. Although the right to strike has been available to firefighters in this province, to my knowledge this has not been a problem, due to firefighters voluntarily giving up this right, and I believe there is a provision in most collective agreements acknowledging these decisions. One must acknowledge the right of management to certain exclusions from the bargaining unit. However, I should point out to this committee that in Canada there have been very few labour stoppages among firefighters where senior members of the department are within the unit. The cities of Montreal and Halifax are two exceptions that come to mind. In both of these cities



the officers are not in the same bargaining unit as the firefighters, and both of these cities experienced strikes in the not-too-distant history.

The committee should also be aware that a number of municipalities within this province currently operate without deputy fire chiefs as cost-saving exercises, and for these municipalities to request these exclusions should be treated with some caution.

Although the bill does not refer to the privatization of fire departments, it does, through the municipal restructuring program, allow municipalities the flexibility to find the best ways of providing local services that meet local circumstances. This bill makes it mandatory for fire prevention and public education programs but allows latitude for suppression. Any jurisdiction that is relying on private fire departments is at the whims of the contractor. Personnel, equipment, training and most of all reliability are dictated by the cost, and need for profit.

I think that currently we need only to look at the questions raised on the safety of Highway 407 by the Ontario Provincial Police, the men and women who will be investigating and reporting accidents and maybe even deaths on this privately funded, cost-effective highway. Unfortunately we do not or will not know if these cost savings will translate into more accidents and loss of limb or life until some time in the future. It appears the honourable Minister of Transportation will have to make a political decision which may or may not come back to haunt the minister in the future. Why should the citizens of some municipalities who are currently funding a fire department have to risk loss of property or life in the future due to the desires of some municipal governments who are willing to take such a chance due to budgetary desires?

The conciliation process that the minister is implementing would be, in my opinion, from past experience, a total waste of time and money. During the 1960s and early 1970s it was convenient for most councils to let arbitrators decide any issues or benefit they would be uncomfortable giving to their employees as the members of a council may have had to answer to the taxpayers in the future. It was easier for the council to blame it on a usually nameless arbitrator than to stand up and say that the benefit was deserved and why it was given. It also appeared that many municipalities approached the arbitration process unprepared, and I believe that this was evident when the awards were reviewed. Since then municipalities appear to be going to arbitration boards better prepared, and the awards are indicating the same. Most firefighters' associations have good working relationships with their municipalities, and to insert a conciliation step is only a delaying process requested by municipalities. There normally is sufficient time between the breakdown of negotiations and the arbitration dates for reasonable men and women to effect a compromise without the need of a costly conciliator.

Currently, hours of work have been subject to negotiations between the parties, and it appears that the terms of this bill exclude same from the collective agreement process. Why would an important part of working conditions be excluded? I am at a loss as to the reason for any employer or employee not being able to negotiate such an

important detail. It does not appear that in the past the hours of work have been a problem between employers and employees. Is it the desire of the bill to make such a dramatic change that this provision should be included? The conditions that firefighters can be subjected to at any incident should preclude any change to the hours of work.

The suggestion of the employment of part-time firefighters is of grave concern to most firefighters, whether they are officers or other members of the crews. Firefighting is a team concept, and to have any doubt as to the availability or the training or experience of the crew will certainly result in reduced levels of service.

The current fire marshal of this province has in the past spoken of on-site manning as the key to the future for crew response size. This means that at a certain time after the initial receipt of the alarm a certain number of firefighters will be at the incident. On paper this appears to be reasonable, but what is a reasonable time?

Studies have shown the dramatic effect of fire spread within a time delay of deploying suppression. Tell this to the occupant of a dwelling, who is watching and waiting for a rescue to be initiated, that until a certain number of personnel are on scene the rescue cannot be initiated or the suppression attack cannot begin. The on-scene firefighters will have to make decisions that could and will lead to the loss of property or life of both the citizens and the firefighters. What I mean by this is that no firefighter is going to sit outside a building on fire knowing that there is someone, your children or my children, in that building and not take a chance on going in, regardless of what the rules may be. So please don't tie their hands.

**1450**

If you have never encountered the eternity during emergency procedures, it is difficult to imagine the agony of someone waiting for the arrival of equipment or watching for a loved one to be rescued.

The role of a firefighter has changed greatly during my years as a firefighter. It's no longer, "Put the wet stuff on the red stuff." Now hazardous chemicals, auto extraction, defibrillation procedures, medical assistance and even the odd childbirth are a few of the extra duties performed by and expected of firefighters. Would part-time firefighters be trained in a manner that their skills would not reduce the effectiveness of a department, or would the cost savings of this part-time person satisfy the manager who would agree to this? The possibility of injury and disease are greatly increased with every new evolution undertaken. Should this part-time person be subjected to these risks?

The minister speaks about the management team. I would ask you to take a look in this province at the record of our fire chiefs. Take a look at the city of Toronto, where most of our chiefs have risen through the ranks. The minister has indicated that he feels the association limits these people, but let me tell you that in most collective agreements the promotional policies do away with that and the cream rises to the top.

In closing, I respectfully believe that amendments should be made to this bill which will address the concerns regarding all of the above. There appear to be great strides made to protect and educate the public, which will



benefit firefighters, but they are greatly overshadowed by a few of the negative aspects of this bill.

Thank you for your attention.

**Mr Ramsay:** Thank you very much for your presentation. You spent a little time on the imposition of the hours of work that this bill will do, and that's obviously in stark contrast to the present custom where hours of work are negotiated. What do you think that's going to do to the fire service and maybe the morale of the firefighters in these organizations?

**Mr Sheahan:** Any change to the hours of work is certainly going to have a major impact on the morale. Currently most departments, and for a long time, have had basically the same hours and people have adapted to it. I think you have to remember that firefighting is a career in which you are away from your family at odd hours and for a long time. You're away on weekends. To change this, as Michael said earlier, probably would make a lot of the younger men and women in the department take a major look at continuing in this career base.

**Mr Kormos:** You speak of part-time firefighters and the risk that poses for victims of a tragedy; to wit, a fire or any of the other incidents that you speak of. I'm also concerned about the safety of other firefighters. The sense I'm getting is that firefighters train and work and develop a concept of team where there's a lot of unspoken communication that goes on when you're attending at a scene and that not only does the welfare of the victim of a fire depend on that, but your safety as a firefighter depends on that. Can you elaborate on that a little bit?

**Mr Madden:** I would say that anyone would realize that the more time you spend working with someone on a day-to-day basis, the better you get to know that individual, his faults, his strengths, and you start to realize what guys are better for what and you end up covering each other for those specific reasons. That's the team approach, and that's something we feel would be lost if you run into a case where an individual is brought in one day a week or he's brought in when there is an emergency only. I think we'd lose that continuity, if you will.

**Mr Tilson:** I understand your concerns. You mention hours of work. I think that's section 41 or 42 — 42 to 48, is it?

**Mr Madden:** It's under section 52 and referred to again under section 43.

**Mr Tilson:** I also understand your concerns, the fear of reduction of work size. I understand those issues, particularly issues of fatigue. Of course, a municipality may or may not do those things.

I'm sure you've read section 2, subsections (7) through (10), which list off very increased powers to the fire marshal, and you've heard the fire marshal this morning, who can literally come into a municipality and, if there's a threat to public safety, a threat that you're suggesting, the fire marshal along with the regulations that the government will be putting forward, putting a minimum standard across this province, can take very severe action against a municipality. My question to you is, what is wrong with that?

**Mr Sheahan:** I guess I have to come back to you, sir, with my question: What is the minimum standard?

**Mr Tilson:** First of all, if you've read subsection (9), which talks about the fact that there are going to be minimum standards for fire protection service in municipalities requiring municipalities to comply with the standards, the fire marshal is going to be given very strong powers to come in. If a municipality —

*Interruption.*

**Mr Tilson:** There are laughs in the audience, but you should read the section, because it's there.

**The Chair:** Excuse me, Mr Tilson. I am afraid your time is up.

Mr Sheahan and Mr Madden, thank you very much for taking the trouble to assist the committee today. We appreciate it.

#### CITY OF MISSISSAUGA

**The Chair:** Our next presentation will be a citizen of Mississauga, Her Worship Hazel McCallion, and Chief Cyril Hare. Welcome, your worship.

**Mrs Hazel McCallion:** Thank you, Mr Chairman and members of the committee. I seem to be coming down here a lot.

**The Chair:** It's always pleasant to see you down here.

**Mrs McCallion:** First of all, I appreciate the opportunity to deal with Bill 84. I was a member of the Who Does What panel and I was on the subcommittee that dealt with fire, police and ambulance. So we spent a lot of time on this, and the fire marshal was present, as well as the staff of the province.

First of all, I want to say that I think we all have to agree that the status quo is not acceptable any more. That relates to all services, no matter, and to municipalities etc. We can't go on the way we are. We've got to look at how things can be improved. I think that is something that is very difficult.

When I think that I was president of AMO in 1978 — we were talking about amendments to the fire act, and every time we got close to it, the lobbying that went on by the fire associations, I have to say, caused the politicians to back off. I wouldn't be a bit surprised if you don't back off this time. When I see some of the literature that's being distributed with, in my opinion, misleading information about Bill 84, trying to raise fear in the minds of the citizens, I think it's unfortunate. So I want to make my position very clear on that.

We are a municipality of 560,000 people and we have one of the best fire departments in the country. I think the Mississauga derailment was proof. Our municipality gives every priority to the fire budget of our city. I've said on many occasions I want my fire staff to have the best equipment, the best clothing, everything, the best on the market. We as politicians are prepared to do that.

So I get a little concerned when today I think local government is taking sort of a beating that we're not responsible. I'll tell you, if any level of government in this province is responsible, it's the local level of government, and I'll tell you why: because we're right there with the people. If we don't do what is necessary, I can assure you they don't know where to get their MPP, or not that often, they don't know where to get their MP, but they sure know where to get the mayor and the

members of council. So if we at any time decided to reduce the fire protection for our city, my job would be on the line. I want to make that clear.

Second, I think you should know that there are many municipalities in this province that operate with a volunteer fire department. I had the pleasure of being mayor of one. The town of Streetsville had a voluntary fire department second to none. It would match any full-time fire department, and in fact the deputy chief of the volunteer fire department became the chief of the big Mississauga full-time fire department. That shows you that it can be done.

1500

We support in principle the provisions of Bill 84. We're a little disappointed because the Who Does What panel recommended automatic response. Yes, it's in the bill, but with the union agreements we can't implement it.

Second, there is one recommendation that we're disappointed is not in the bill, and that is the way in which arbitration is handled. It's very interesting that when it comes to arbitration awards, the employer and the union have the choice of trying to decide who the arbitrator should be. I'll tell you, when it's a development application before our city, we have no choice as to who hears the application at the OMB. We don't know until the time is assigned. We asked that that be in the act, that the arbitrators be full-time, as the OMB hearing officers are, and that the province assign the arbitrator. We're very disappointed that was not in the Who Does What.

Management exclusions: It's a step in the right direction. We did not feel it went far enough, and I can assure you that the decision as to whether other positions can come out of the union will be based on the management definition in the Labour Relations Act. You know automatically that's going to go to arbitration, so again we're into this very costly arbitration process. That is why we recommended conciliation before arbitration. It's a welcome provision of the act.

Selection of arbitrators: as I've mentioned.

No contracting out: That is a very difficult thing for the municipalities, not to be able to contract out. I think it's very essential that we do that, and I take exception to the comment that was made by one of the previous presenters that the province is giving this tool to the association of municipalities to cut costs. I think that's an unfortunate statement to be made here to this committee. The province is not giving it to us to cut costs. I want you to know that the municipalities of this province are extremely responsible to the people and directly accountable to the people, more so than any other level of government. I think we've proven it in Mississauga. Therefore, this idea that municipalities are going to play around with the safety of the people and the property I take real exception to. It's just unacceptable to use that type of argument. I'm glad I came a little early to hear that, because I think it's most unfortunate.

Part-time firefighters: You know that volunteer fire departments have to be trained just as adequately as a full-time firefighter. I even have complaints that one fire department, full-time, is not as good as another. Isn't that

interesting? I thought the training of firefighters is mandated, and why shouldn't it be?

The other thing in the act that's very important to us is fire prevention. There are some municipalities, especially in faraway places, that do not have fire prevention. This act certainly makes it necessary now to have fire prevention.

Those are my comments. I think the act is a step in the right direction. If there are some things that could be clarified, I would hope the government would be prepared to sit down and clarify them, but I can assure you I am concerned about this fear that is being placed in the minds of the people of this province that this act is going to lessen the fire protection in this province. I think that's most unfortunate, and I'm very disappointed that in my own city that is being promoted when we have, as I say, spent all kinds of money. We've never questioned the money to be spent on fire protection in our city. So I hope the province will look at some of the things.

Hours of work: I wish I could have my hours of work regulated in which I could have time off etc. I get a lot of complaints from my citizens that firefighters have two jobs: the one for the fire department and the one that they work with their days off. As long as we get the fire protection we want, I'm not concerned about that, but I think the firefighters should know that is a concern out in the community.

I'm very proud of my fire department and I'm rough with them as well. When it comes to sick leave, we try to negotiate out the sick leave with them, and every time they send it to arbitration. They wouldn't even let us negotiate it out for new firefighters coming on. I don't believe you take something away from an employee that you give them, and since it was given to the previous firefighters who were hired by the city, I say fine, but the new ones coming on, we as a city wanted to put them under a plan that all other employees of the city are under to protect them.

I think it's time that the fire departments or the associations — which are unions, by the way; there's no question they are unions — will take into consideration that the status quo is not acceptable and that we have to sit down and figure out how we can provide the adequate fire protection for the least cost and in the most efficient way. Maybe some functions of the fire department can be contracted out. I'll tell you, we sit with an information system in the region of Peel that can't go into operation because we've got to try to get the Brampton fire association to agree with the Mississauga fire association. So we have got problems, and they're all labour relations. It's as simple as that.

**The Chair:** Thank you, Your Worship. Chief, do you have anything to add?

**Mr Cyril Hare:** Not at this time.

**Mrs McCallion:** In fact, I'm rough on him too.

**The Chair:** We have some time for questions, approximately two minutes a caucus.

**Mr Kormos:** Within the context of Mississauga, and appreciating that council would have to make that decision, which of these new opportunities — part-time firefighters, contracting out, privatization of part or



more — that are in this bill could you envision Mississauga considering; if not taking, at least considering?

**Mrs McCallion:** We have never and I doubt that we would ever contract out the fire protection of the city, but I've got to tell you that we could be forced into that. You know, I heard a number of people say "negotiate." Yes, I guess we negotiate, but when you have the right to go to arbitration on everything, it ruins the other people we can sit down and negotiate with. We have to either come to agreement or we're in trouble. In this case, we don't.

In regard to hiring part-time, no, I don't see us ever thinking of that in the city of Mississauga. We're a large city with a lot of industry and, as you know, today fire protection has to be advanced. We don't hire the way we used to. I found when I got into the fire department in Mississauga that there was the grandfather, the father, the son. We hire now based on qualifications, and very tough qualifications. That's why we've got one of the best fire departments in the country.

I don't think we would use any of those, but I'll tell you, we'd like to use automatic aid that is not bound by the contracts. Right now, there's an area of Mississauga that cannot be protected by Mississauga and Brampton — should be the automatic response. We can't do it until we get over these negotiations.

So there's a lot of things, and I've said to my fire department, "We've got to sit down and negotiate these and forget about this arbitration process." If we're interested in the good of our people, if we're interested in protection for people and property, then I think we'd better find a solution and not use a union agreement to keep us apart.

**Mr Ron Johnson:** Thank you for your presentation. I want to follow along the lines of contracting out and privatization. As you well know, no municipalities currently in Ontario are doing that and it's been alluded to that they've already got the ability to do that now if they choose. To what degree, I guess some would argue.

My question is, you haven't done it in Mississauga and you just indicated that you doubt your municipality would ever contract out fire protection services. What kind of an inconvenience or problem would it create for municipalities across the province in your opinion if there was an amendment that prohibited the contracting out of fire protection services?

**Mrs McCallion:** First of all, I have to say to you that there are only two things guaranteed in life, and that's death and taxes. So I can't guarantee that the city would never want to contract out. That's like saying — I guess 25 years ago if you had looked at the technological advance made, you would never have thought that we could do the things or put a man and woman on the moon. So I'm not going to say we'd never do it. I don't see us doing it because of the complexity of our municipality and the success with which we have been able to manage our municipality, in which we're debt-free and haven't increased the taxes for six years and we've got the best fire protection, I believe, or as good as any, in the province.

So I can't stand here and say we'd never contract out, because I'm not going to be around 10 years from now to guarantee that. I think there are certain things that we would like to contract out and I think they should be

looked at, but we will always have this union agreement hitting us in the face. I think the arbitration process is what prevents what I call sincere negotiations between the municipalities and the fire associations, and it's unfortunate.

**Mr Ramsay:** Mayor, I just wanted to thank you very much for making your presentation. As always, you've made a valuable contribution to the committee and I know all of us are going to be looking at what you've said today when we get down to clause-by-clause deliberations.

**The Chair:** Your Worship and Chief, thank you very much.

1510

#### INTERNATIONAL ASSOCIATION OF FIRE CHIEFS

**The Chair:** Our next presentation is the International Association of Fire Chiefs, Mr Peter Ferguson. Did I get that right?

**Mr Peter Ferguson:** Mr Chairman, I'm here as a principal presenter for the city of Toronto. I received a telephone call this morning from the International Association of Fire Chiefs and unfortunately their presenter couldn't get here. Garry Briesse, the executive director, has asked me if I could have the latitude of the committee to read into the record a letter from the International Association of Fire Chiefs.

**The Chair:** Excuse me, sir. What is your name?

**Mr Ferguson:** My name is Peter Ferguson. I am scheduled as the next speaker to speak on behalf of the city of Toronto. I've been asked by the International Association of Fire Chiefs, of which I'm a member, in their space to read a letter into the record for them.

**The Chair:** How long do you figure it will take?

**Mr Ferguson:** Not long. It's a two-page letter and I'd just like to read it.

**The Chair:** Fine. Please proceed.

**Mr Ferguson:** I do have copies for the committee. I also have sitting next to me here Dave Guilbault, who is the chief of the Ancaster fire department.

The letter is addressed to the Chair of the committee and it's on the letterhead of the International Association of Fire Chiefs:

"On behalf of the International Association of Fire Chiefs, I would like to offer some comment on the portions of Bill 84 which accommodate the potential privatization of fire departments in Ontario.

"The IAFC is the professional membership organization for senior fire and emergency services managers and represents more than 11,000 individual members. The members of the IAFC provide leadership for the fire and emergency services organizations that protect the majority of the population of both the United States and Canada.

"As you know, over many years several communities in the United States have experimented with privatization, and in many of these cases the efforts to privatize the fire service have resulted in failure and a return to public fire protection.

"The primary impetus for examining the privatization of fire service often is highlighted as potential money savings. A careful review of nearly all of the factors in

favour of privatization can be found to translate in one way or another to the potential promise of cost savings for the municipality. No other factor can even come close to money when evaluating potential privatization efforts.

"Often the promised cost savings are not achieved by an increase in productivity nor the increased use of resources nor by any new technology, but only can be accomplished through a reduction in the number of fire-fighters or in the benefits provided to those firefighters.

"The largest negative factor is also that, in the long term, the envisioned cost savings are often significantly less than anticipated or promised in the early stages of a privatization effort. There is a body of opinion that private contractual services can lead to a lessening of control over an essential public safety service and eventually to a significant deterioration of those services.

"While certain limited and short-term advantages may be gained, these advantages are often far outweighed by the long-term disadvantages which include a significant upheaval in the relationship between labour and management, a reduced fire protection response, a diminished emergency medical services capacity, and a substantial exposure to increasing costs.

"We believe that the fire service, as it is currently organized, can provide a cost-effective and cost-efficient service to the citizens of the communities they serve. We also believe that this goal can be best obtained through the development of a new relationship between fire service and labour management — the development of a fire service leadership partnership.

"The importance of a supportive city, county or provincial government cannot be emphasized enough. In fact, this factor may be the single biggest determinant to the success or failure of any effort to fundamentally change the relationship between fire service labour and management and at the same time find methods to improve efficiency and contain municipal spending increases.

"We believe that this new relationship must bridge the old confrontational style that has been successfully used by both labour and management. It worked for many years when the future of the fire service was basically the same as its past, but the future is not the past. It is important that your committee realize that the fire service is moving to meet these challenges and prepare our workforce for the next century.

"Many communities have used the threat of privatization of their fire service to continue the confrontational relationship that has existed between the community and its firefighters. This is not the relationship that needs to exist between any community and its firefighters. Privatization may not be the answer to the problems that a community may be trying to solve.

"The promise of a new relationship between labour and management and the development of a true fire service leadership partnership will test the maturity and commitment of fire chiefs, labour leaders and firefighters. But the time has come.

"The IAFC is committed to doing what is necessary to make this new relationship work for the communities we serve, for the citizens, for the future of our employees, our labour colleagues and our fire departments.

"Sincerely,

"Garry L. Briese, Executive Director," International Association of Fire Chiefs.

Would you like me to start my presentation as the —

**The Chair:** I understand you're reading a letter into the record. Mr Ramsay suggested to me that there might be an opportunity to ask questions, but you're really not representing that organization.

**Mr Ferguson:** They asked if I'd read it into the record. I'm going to present my primary brief as the chief of the Toronto fire department.

**The Chair:** We do have time if you wanted to say something, but asking Mr Ferguson a question I think would be unfair.

**Mr Ramsay:** I wouldn't mind, then, just commenting on this letter, which I find very interesting because, just a few submissions before, we had a submission from the Ontario Association of Fire Chiefs which took a very different view on Bill 84. It would make you think that fire chiefs, because of the Ontario association, are against this bill. But now we have a letter, as has just been read into the record, from the International Association of Fire Chiefs which takes a very different tack. I think it begs the question, why is the Ontario Association of Fire Chiefs so supportive when the international association, which has the experience internationally with other jurisdictions trying to privatize firefighting services and has seen the failures of those experiments, have that wisdom — it's really refreshing to see a progressive group of chiefs who understand the modern ways of labour relations, that we've got to get away from this confrontational method of labour relations that Bill 84 just continues on, because it dictates to firefighters their hours of work and some of the other matters we've discussed here today, and take a very progressive approach. I would hope the Ontario fire chiefs somewhere down the line would see the light and work in a more cooperative manner with firefighters in Ontario.

*Applause.*

**The Chair:** Excuse me, I think I mentioned this morning there are no demonstrations permitted.

**Mr Kormos:** That was applause.

It's interesting, because I read your submission, Chief, you having just distributed it, and you, as the chief of the Toronto fire services, are interestingly not at odds with the International Association of Fire Chiefs and the comments they make. You appeared perfectly comfortable relaying —

**The Chair:** Please, Mr Kormos, I've already ruled that he cannot answer questions in regard to a letter which he read into the record. Mr Ramsay took my meaning to mean that he could make a statement, which he did, and I would request that you do the same if you disagree with it. I think it's very unfair to ask Mr Ferguson questions on a letter that he did not write.

**Mr Kormos:** You felt perfectly comfortable reading that.

**Mr Ferguson:** If I have an opportunity to make my submission, I think you'll see some similarity in some of the concerns I have with what was said by the fire chiefs. Of course, I wouldn't have read it into the record if I was in conflict with the letter.



**Mr Kormos:** God bless you, Chief Ferguson.

**The Chair:** Is there any statement to be made by any of the government members? If not, Mr Ferguson, we will proceed with your primary presentation here today.  
1520

#### TORONTO FIRE DEPARTMENT

**Mr Peter Ferguson:** Good afternoon. My name is Peter Ferguson. I am the fire chief of the Toronto fire department. I'm a career firefighter. I have 20 years' service in the municipal fire department. Prior to being appointed as the deputy chief of the Toronto fire department, I served a number of years in the North York fire department, which is the second-largest fire department in Ontario. I'm formerly a member of the fire service advisory committee on occupational health and safety, and I currently sit on the NFPA 1201 committee, which is developing standards for the fire service. As the fire chief of this municipality, last year I responded to 26 multiple-alarm fires where I was the incident commander.

I would like to thank you for this opportunity to present to the committee this afternoon.

The overall objective of any fire department is to provide the community with the optimum level of protection from fire and other related public hazards. At the same time, the department must ensure an appropriate level of health and safety for its firefighters.

The firefighting division is by far the most costly element of a fire department's operation and it should be designed in the most cost-effective fashion. When staff or equipment is poorly utilized, there is significant financial waste. On the other hand, a poorly staffed fire department can result in property and life loss beyond accepted community norms. The cost of a firefighter death or disabling injury may far exceed any money saved by understaffing. That is not to say that there is a fixed value on a life or injury. The point is that firefighting forces are the asset that protects the community's economic and tax base as well as its health and welfare in the event of an emergency. This asset is a valuable one and must be carefully provided and wisely managed.

Toronto city council has funded and operated a municipal fire department since 1834. The Toronto fire department serves and protects 640,000 permanent residents and a workforce of close to 600,000 people. With the addition of tourists and visitors, the daytime population of the city exceeds more than one million people. The Toronto fire department is the largest and busiest fire department in the province, with an establishment of 1,270 full-time employees and 97,000 unit responses in 1996.

The Toronto fire department has well-established fire prevention and public education programs. The staff of our training academy ensures the department meets the changing needs for training and safety and the overall fitness and health of our employees. Our equipment services division maintains and repairs more than 10,000 pieces of equipment annually.

The firefighters work a 42-hour week, with 10-hour day and 14-hour night shifts. Just a historical note: The hours of work that are currently in the present Fire

Departments Act, the 42-hour work week, which is the norm for firefighters in the province of Ontario, was as a result of an arbitration in the city of Toronto in 1956, which formed in part that section of the current act. I'm proud to say here today that the Toronto Fire Fighters' Association and the corporation of the city of Toronto have not been to arbitration on an interest matter since 1956.

The Toronto fire department operates under a four-platoon system operating from 27 stations. Our front-line apparatus consists of 29 pumpers, 16 aerials, three rescue squads, one hazardous material unit, one high-rise unit and one fire boat. The Toronto fire department has evolved into a total rescue service that involves many diverse functions: fire suppression and rescue, auto extrication, high-angle rescue, hazardous materials control and basic life support, including defibrillation. Fire safety is now a quality-of-life issue and the people are demanding more fire prevention and public education programs.

The Toronto fire department in the last 20 years has produced three master fire plans, which examined the current and projected emergency response and fire safety needs of the community. The recommendations contained in these long-range development plans have received the necessary support from city council. This has allowed the Toronto fire department to respond to the changing needs of our community and fulfil our commitment to a fire-safe city.

At its meeting on February 24, 1997, Toronto city council took the following action:

(1) Affirmed its support for the firefighters of the city of Toronto and expressed its concern with respect to the provincial government's Bill 84.

(2) Requested that the provincial government be advised that council does not support any legislation that would lower standards for firefighting or disrupt the firefighting system that the city of Toronto relies on.

(3) Requested the Solicitor General and the Legislative Assembly to consider amendments to Bill 84 that would eliminate any aspect of the bill that could undermine fire safety in the city of Toronto.

I understand that Mayor Barbara Hall will be here tomorrow to offer her comments to the committee on the bill.

In the time allotted for this presentation, it's not possible to do a clause-by-clause review of the bill. However, I would like to highlight some of those sections that give me cause for concern.

General comments related to Bill 84: The proposed Fire Protection Act, a consolidation of nine separate statutes, creates a new legislative framework for fire protection, fire prevention and firefighter labour relations in Ontario. As a result of this consolidation, the draft is like a patchwork quilt, with sections of the Labour Relations Act and other pieces of the existing legislation knitted together, dependent on yet unwritten regulations to clarify the intent. For example, the bill does impose an obligation on both the employer and the union to "bargain in good faith and make every reasonable effort to effect a collective agreement." However, the bill as presently drafted does not provide for any specific enforcement mechanism with respect to this requirement

or many of the other mandatory requirements under the bill, including the prohibition against strikes and lockouts.

Part II of the bill sets out the municipal responsibility for providing fire protection services and makes it mandatory to establish programs that include fire prevention and public education with respect to fire safety.

Fire protection services, however, are not mandated and a review of municipal fire protection services is only considered if the fire marshal is of the opinion, and I quote from the bill, "that, as a result of a municipality failing to comply with its responsibilities...a serious threat to public safety exists." Considering that the proposed legislation opens the door to part-time firefighters and contemplates the contracting out of full-time municipal fire departments, clearly defined standards for fire protection, training and certification should be included in the legislation to guarantee the safety of professional firefighters and to ensure that a serious threat to public safety will never exist.

**1530**

**Part III, fire marshal:** The bill significantly increases the power and responsibility of the fire marshal. With this expanded role for the fire marshal, is it contemplated that the fire marshal will be provided with the necessary resources to carry out the expanded role, as in my opinion the office of the fire marshal does not have adequate resources available to carry out their existing mandate, particularly in the area of training and fire investigation.

Under duties of the fire marshal, it should be a duty for the fire marshal to consult with each level of the fire service prior to developing training programs and evaluation systems, and that consultation should include large urban, mid-sized urban, small urban and rural/small town departments where applicable. It should be the duty of the fire marshal to recognize that there are differences in the needs of the fire service community according to their size and community profile.

The operation of a central fire college should be a power, not a duty. This will allow for the most efficient and cost-effective method of delivery for specialized training duties.

**Part VII, Offences and enforcement:** Section 28 offences apply to all provisions of the act and will expose all of the members of the fire department, the fire marshal and all of his staff, the officers of the municipal corporation and the councillors of a municipal corporation to fines and imprisonment. This can apply to all violations of any and all labour relations provisions of the act. Again, clarification is required.

**Part IX of the proposed legislation** sets out the labour relations provisions for firefighters and is by far the most contentious part of the bill. The broader definition of "employer" opens the door for the privatization of fire departments in Ontario and the use of part-time employees. This new approach to fire protection in this province could result in the erosion of the quality and level of fire protection in the province.

The proposed legislation gives the fire chief the exclusive right to call in off-duty firefighters as a result of an emergency. What is an emergency? If it's not defined in the act, without a clear definition of "major emergency,"

this section is subject to abuse and could lead to a reduction in the number of full-time firefighters available on duty for initial response purposes, particularly in privatized fire departments.

The bill allows for automatic exclusions from the bargaining unit, to a maximum of five. Additional bargaining unit exclusions must be approved by the labour relations board.

I agree that a department the size of the Toronto fire department should be allowed additional exclusions from the bargaining unit. However, I do not support the position taken by some that everyone above the rank of firefighter should be removed from the bargaining unit. In a large department this could result in two bargaining units, one for officers and one for firefighters. In the city of Toronto I have 220 firefighting captains. That would certainly be a bargaining unit larger than most bargaining units in Ontario. I am concerned that this would have a negative impact on the crew and team concept at the operational level in the firefighting division, a major safety consideration.

The bill provides for conciliation before interest arbitration. This is appropriate, but the parties should not bear the costs of conciliation when parties under the Labour Relations Act have conciliation provided by the ministry without cost to themselves.

The new legislation provides for both certification and decertification of bargaining units. In the transition period leading up to certification, it is unclear what the status of the current collective agreements under negotiation or referral to arbitration might be. Without clarification around transition issues, there will be confusion on the part of the parties as to where they stand and what may be done in the workplace, and that's not a good thing for the fire service.

In conclusion, I submit to the committee that the draft of Bill 84 has some serious flaws. Appropriate amendments must be considered before the bill is passed into law. Thank you very much.

**Mr Tilson:** Thank you very much for coming and making your presentation. I'd like to ask, are you able to tell me how much the city of Toronto spends on overtime?

**Mr Ferguson:** Nil. Zero.

**Mr Tilson:** With respect to the topic of privatization, you suggested that privatization may not be appropriate, and it may not be in many circumstances. Are there any areas where it is appropriate? I'm thinking, for example, with respect to inspections or education of the public, of the firefighters themselves, of continuing education. Are there any areas in which there could be forms of privatization?

**Mr Ferguson:** My experience and the experience in the United States related to privatization, and I think a little bit was touched on in the letter I read, is that private providers of fire and ambulance service are in the business to make money, and in doing so, obviously there are a lot of standards that are not met. What I have to relate to you is that if it's the intent of the government to allow private fire departments, there must be standards put in as to what standards will be met. That is the one glaring error.



They're going to mandate public education and fire prevention. Most departments have well-established programs. If you choose to contract out, you must give protection to a level of standard. There also must be the training component.

I sit on the NFPA 1201 committee which is developing standards for emergency medical service and fire protection, and that's one of the things that's really been problematic in the States. There are no standards, there are no unions in these private companies and basically, particularly in the EMS area, some of these employees will work in excess of 18 hours a day.

So I think that if it's your mind to do that, you have to balance the scales, and I don't believe they're balanced here.

**Mr Ramsay:** Thank you, Chief, for your presentation. It's very refreshing to see a fire chief from the largest firefighting service in the province come forward showing some of the concerns, and I hope the government members, especially the parliamentary assistant, are paying attention to this.

I thought that in your answer to Mr Tilson you made a very good point that I'd like to elaborate on a little bit, when you talked about the privatization of fire services. In a free-market system the mandate of a company is to make a profit. Their mandate is to do well, and that's great, and we want companies to do well, but your job is to do good, to do the public good, and I really think there's a difference there.

That's why I think we have a public sector, that there are some functions in society that government takes upon itself to deliver, and while there's a real zeal on right now to somehow try to privatize everything, there are sort of core functions of government, especially those that are involved in public safety and security, that I strongly feel have to remain in the hands of the public sector so that you're accountable to the people to do the public good.

I think that's the point you're making here and I feel very strongly about that. I will certainly be asking the government to consider some sort of amendment to be brought forward so that we would have assurance in Ontario that firefighting services will remain in the public sector so that they are there to do the public good. I think that's what should happen.

**Mr Kormos:** Obviously you've talked about privatization, and the other issue you spoke of was that of part-time employees and how this bill facilitates that. What's wrong with part-time employees, part-time firefighters?

**Mr Ferguson:** Again, one of the problems with the legislation is that it opens the door to part-time employees but there are no clearly defined standards as to what those employees would be required to meet.

The other thing that I also find is most interesting in the bill is in the dual definition of firefighter. In one they say we can have part-time firefighters, but they explicitly exclude the organization of volunteers into the full-time bargaining units.

My experience in the area of occupational health and safety is that the volunteers, more so today, want to be covered by a lot of the legislation that covers the full-time firefighters; and to balance the scale, if you want to

allow part-time firefighters, there have to be standards, there have to be training standards. That's one of the reasons I mentioned in my submission, that if it's going to be a duty of the fire marshal to create those standards, I think all the stakeholders should have input. It shouldn't be just the management side to look at those. That's a big concern. There doesn't seem to be a balance. It seems to be all balanced one way. I think you need a balance in there.

**The Vice-Chair (Mr Ron Johnson):** On behalf of the committee, Mr Ferguson, thank you for your presentation.

1540

PETER SIMONSEN

**The Vice-Chair:** Moving on to the next presentation, Peter Simonsen, please. Good afternoon, sir.

**Mr Peter Simonsen:** Good afternoon everybody. Ladies and gentlemen, I wish to deal mainly with the aspect of Bill 84 that permits municipalities to privatize fire departments.

When I bought my first house in Pickering township in 1963, the property taxes were \$204, or two weeks' pay. We had a volunteer fire department then and that was what we could afford and it was adequate. The fire trucks were kept in a steel building behind the township office. The ambulance was run out of the funeral home. The point is that the people engaged in these services made their living at something else.

As my property taxes quadrupled over the last 20 years to over \$6,000 per year, I started to examine where all the money went. I now pay more in taxes towards the fire department than I pay for fire insurance. Here in Ajax we have multimillion-dollar, architect-designed firehalls spending over \$5 million. In 1992 the operating cost came to about \$85 per citizen of Ajax. Other municipalities have per-citizen fire budgets for 1997 as follows: Pickering \$79, Scarborough \$65, North York \$87, Etobicoke \$77. It should be noted that every municipality has its own management and administrative setup. Significant savings could be had with just one administration per county or perhaps one for the whole province.

When someone has a heart attack or a fainting spell and you call 911, here is what you get, and I have seen it: first the police, often two cars, then the fire truck, third the ambulance, and fourth, sometimes, the fire chief shows up in his red sedan. Everybody has to show the flag in order to justify their outrageous budgets. All you really need is an ambulance with the necessary equipment on board. When I ask the local politicians why they allow this waste of resources, they tell me it is provincial regulations.

When I was a youngster in west Jutland in the 1940s and 1950s, we had two competing rescue services. On our farm we had a contract with the Falck Rescue Corps. Once a year a Falck man would come to the farm and collect the annual fee. Falck supplied us with a substantial first aid kit, and for anything to do with rescue, fire, ambulance, roof blowing off, stuck tractor, dead battery, flat tire, road or farm accident, we called Falck.

I think the direct payment was great, because when we pay by way of government, we are fortunate to get back 50 cents on the dollar in services. In fact, I don't believe



I get 10 cents on the dollar for my property tax up here in the country. The road is in atrocious condition, the snowplow doesn't come until everybody has gone to work, and if you want your kids to have a decent education, you have to take charge of it yourself.

Today Falck is the dominant player in rescue services in Denmark. It provides fire service on contract to two thirds of the municipalities in the country. This represents about 10% of Falck's overall activity. Falck provides ambulance service, wheelchair buses and regular buses to transport the elderly to doctors' visits and tests. These services are provided on a contract basis to all the counties, and this represents about 40% of Falck's activity. The remaining half of Falck's income is from private contracts or paid by private insurance.

Falck looks after accidents, and only if there is drunkenness or criminality involved are the police called. There is not as great a desire to place blame there, nor is there a large blame industry. Falck has one head office, one administration.

Falck was started in 1906, and until recently it was owned by the Falck family. Falck Holding is now owned by seven insurance companies. These of course have an interest in having an efficient rescue service. The Falck Rescue Corps is owned 80% by Falck Holding and 20% by an employee fund. Employees elect five of 15 directors.

Falck Rescue operates 132 rescue stations in the country. Some of these are firehalls only and are manned by part-timers. Some 33 of the stations are also dispatch centres, which also monitor fire and theft alarms. You call Falck for a home nurse, and in the night for a doctor or a midwife, even a security guard. I am told that it owns all but two of the tow trucks in the country.

Falck Air is another subsidiary. It owns several propeller aircraft and two corporate jets that are used both as ambulances and as taxis. Patients are transported between hospitals in the Nordic countries. Nordic citizens travelling or working elsewhere in the world can take out insurance that will pay for health care locally, and if good services are not available, they will be brought home by ambulance jet. Once I read in the newspaper that a Danish foreign aid worker had developed a blood clot while in the Sudan. A jet with two Falck pilots and two doctors on board was sent to pick him up. Could we not have a similar system here so that our snowbirds and their families do not risk being bankrupted by the American hospital system?

The following pages are copied from Falck's 1992 annual report. You will note that the turnover was the equivalent of \$477 million, or \$91 for each of the 5.2 million citizens. This is only slightly more than what we spend here for the fire department alone, and half of it comes from private sources. At first glance the difference in cost seems incredible, but a Falck man's hours are 80% billed for and no one sleeps over at the firehall.

It would appear that by contracting out our rescue services and putting them all in one place we could save a great deal of money. We would have a comprehensive rescue service for what it costs now to operate the firehall. All it takes is the political will and the courage to do it.

The firemen, like other public servants at risk of being subjected to the demands of the marketplace, are appealing to our emotions in order to save what is surely the softest featherbed in the country. One fireman, writing in the *Ajax* paper, suggested that our children would die in fires if the firehall was privatized. I am sure you are aware of it but it ought to be said out loud: These public servants are not concerned about our welfare, our safety or our children's education. They are agitating for their own welfare and using the poor and children as pawns.

If such reforms are to be effected they have to be forced by Queen's Park. Local councillors and school trustees know that they cannot be elected unless they have the public servants on side, because these are extremely well organized. No aspiring politician could be elected dogcatcher if he suggested cutting the budget for the police, the fire department or the education establishment. I wonder if you can be elected MPP without catering to the public servants.

When Mike Harris took office almost two years ago, I wrote him and suggested that he take a page from New Zealand's book and cut two thirds of public servants, cut across the board and mostly from the top and do it quickly so that powerful vested interests would not have time to get organized. It could not be done without right-to-work laws. I feel we have to do this if we are to put this province on sound financial footing, and to remove the bureaucratic straitjacket from those of us with an entrepreneurial bent, so we can get on with the business of creating wealth and jobs.

Needless to say, I am disappointed with the indecisiveness and confusion I have seen so far. The hospital situation is typical. You have closed beds, fired front-line patient care workers, but the army of obscenely paid administrators is still there, as revealed in the newspapers, feeding at the public trough. It does not take much courage to cut welfare mothers, they have no union, but it would take a little fortitude to put all these bureaucratic parasites out to pasture.

**Mr Ramsay:** I'd like to thank you very much for your presentation.

**Mr Kormos:** I've read this. Obviously I can only read the charts and the graphs and the bar graphs and so on in the accompanying financial reports or annual reports.

**Mr Simonsen:** I have written in some translations and some numbers that may be pertinent.

**Mr Kormos:** I see you've got some notations on there.

**Mr Simonsen:** You may wish to study those pages.

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**Mr Kormos:** I'm not familiar with Falck at all. This is a new bit of information. I'm going to be looking at these and trying to get some more information about Falck Holding and their delivery of service.

**Mr Ron Johnson:** Thank you for your presentation. Further to the privatization initiatives — again, I'm not familiar with this particular model and system that's in place — are you aware that in Canada there have been about seven provinces that have experimented with privatization initiatives and are you aware of the outcomes of those?

**Mr Simonsen:** No.



**Mr Ron Johnson:** Let me help you out a little bit. To be quite honest with you, some of the scenarios that developed as a result of those initiatives certainly weren't in the best interests of the residents of those particular provinces. In fact, there were some cases of hidden books and different sets of numbers and that sort of thing, and that's the ministry that said that in their own report, that in fact it was an unsuccessful attempt. You can make a compelling argument that you shouldn't limit privatization initiatives because of those circumstances. I want to get a handle on how you feel the government should react with respect to Bill 84 in terms of privatization, and if it's a good idea, why haven't municipalities done it already?

**Mr Simonsen:** I think one reason they haven't done it is that the unions would not allow it. But as for how it evolved, in Canada we basically started out with a colonial institution where things were imposed on us, whereas in a place like Denmark institutions have evolved over the centuries from the grass roots. In other words, when there was a need the people in a community got together and filled the need the best way they could. Around the turn of the century there was a need for motorized fire departments. This family stepped in to fill that need and they have evolved to be the institution there. This is very successful over there, which may be part of the culture.

**The Chair:** Thank you, sir, very much for your presentation.

#### ASSOCIATION OF MUNICIPALITIES OF ONTARIO

**The Chair:** Our next presentation will be made by the Association of Municipalities of Ontario.

**Mr Terry Mundell:** My name is Terry Mundell and I am president of the Association of Municipalities of Ontario. With me today is Mr Dail Levesque, who's director of human resources from the city of Owen Sound.

I want to take this opportunity to thank you on behalf of the association for the opportunity to appear before you today to present issues related to the proposed Fire Protection and Prevention Act.

As a sector, we have continually argued that new fire services legislation must be free of barriers which inhibit municipalities from maximizing the productivity of fire protection resources. AMO sees Bill 84 as a step in the right direction in eliminating many of those barriers and municipalities are encouraged that the government has recognized the municipal sector's need for more flexible legislation.

During the many reviews which have taken place over the years, we have focused our comments on the labour relations elements of fire services legislation, and again today our comments will focus mainly on those aspects of Bill 84. Our comments on the general direction of Bill 84 will be complemented with specific recommendations for amendments to various sections of the act.

Municipalities are responsible and accountable for a broad range of services in our communities. Fire protection and fire prevention are a critical component of our

overall responsibilities. We have an enormous wealth of experience in fire services and that experience is anchored within a broader experience in governing, building, serving and protecting our communities.

Municipal governments are responding to a changing economic environment. With the elimination of provincial financial support for services in our communities, municipalities are looking for better and more cost-effective ways of doing business. We're looking for innovation and opportunities to integrate and streamline services so that we can provide the range of services that taxpayers expect and that taxpayers are prepared to pay for. Municipalities need to provide better services at less cost. The province is in a position to assist us by removing the overregulation and barriers to efficiency that waste scarce resources.

Section 2 of the bill sets out new, mandatory requirements for municipalities to establish public education and fire prevention programs. AMO recognizes and shares the provincial interest of preserving public safety. We trust, however, that with this new requirement the government will live up to its commitment to assist municipalities in their additional responsibilities.

This statute clearly articulates what is expected of municipalities. Along with these responsibilities, it is clear that the determination of the level of service provided at the local level rests with the municipality. Although we acknowledge that the fire marshal is ultimately responsible for public safety, as funders and service providers we expect the development of regulations and guidelines to be done in consultation with the municipal sector. We also urge the committee and the government not to lose sight of the critical importance of the volunteer system in the provision of this essential service.

Section 6 enshrines in legislation the appointment of a fire chief and the structure within which he or she reports to council. Municipal councils recognize the importance and the valued expertise of fire chiefs on important matters of public fire safety and we routinely structure our administrations to capitalize on this knowledge.

As you may know, the new Municipal Act, as proposed, will require councils to appoint an administrative head. He or she will be delegated the authority to appoint additional officers within the municipal administrative structure. We support this direction of ensuring a clear responsibility for the administrative function. It makes good business sense.

The inclusion of section 6, as it is written in this legislation, will only add confusion and contradict the direction of the broader municipal reform initiative. Municipal councils are responsible for providing, at minimum, the fire protection services provided for in this act. The fire chief, as other municipal department heads, is responsible for managing the service. If additional municipal positions are prescribed in other statutes such as this one, it will make it difficult for municipalities to organize/reorganize administration to achieve greater efficiency and cost savings. AMO does not support having fire chiefs reporting directly to councils.

In order to achieve consistency between statutes and to alleviate possible confusion, we recommend amendments



to section 6 which clarify reporting requirements and the appointments process. The amendments are listed for you in your report.

Municipalities must be free to design services according to local needs, local circumstances and local priorities. Yet, the current wording in subsection 19(1) does not provide municipalities with the flexibility to determine who is empowered to act as an inspector under the act. This subsection must be amended to recognize the existence of fire inspectors now performing this function and enable other qualified municipal staff to take on this function. We recommend that the act be amended to allow councils to appoint an authorized individual as they deem appropriate.

We have one key concern with the section of the bill on offences and enforcement. We believe that issues related to labour relations should be exempt from this part of the act and we recommend that an exemption clause should be included under section 28.

AMO fully supports the government's move to harmonize municipal labour relations legislation to more closely parallel that in the broader labour relations arena. For years, municipalities have been pressing the provincial government for changes to labour relations for fire services to provide councils with much-needed flexibility to manage the service appropriately. We are very pleased with this development and we welcome the mechanisms the province has extended to us through this statute.

Despite our overall support for these legislative measures, however, we must point out that these productivity enhancements will be met with limited success unless other broader labour issues are addressed.

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Collective agreements which predate part IX of the act should not be allowed to undermine these important legislative reforms. Municipal fire departments must be able to take advantage of the full effects of the act. Improvements like automatic aid, streamlining of fire and building inspections and the sharing of training expertise across a municipal organization are some examples of how municipal fire departments could be managed in a more cost-effective and efficient manner while improving public safety. To quote Minister Runciman, "This bill ensures people's skills and talents will be arranged and managed in a way that will better serve the public and that in itself will improve public and firefighter safety."

The Who Does What emergency services subpanel under David Crombie recommended that new fire services legislation allow municipalities to enter into automatic aid agreements, notwithstanding the no-contracting-out clauses in collective agreements. It is a fair, reasonable and important recommendation and it should be acted upon. No-contracting-out language prevents municipalities from pursuing other avenues which could result in reduced costs and more effective and efficient service provision, and by extension put public safety at risk.

AMO recommends that collective agreements that are in effect prior to this act should not hinder the implementation of Bill 84 and its provisions.

Given ongoing municipal restructuring, the government and the committee must consider the implications of restructuring on fire services. Currently, Bill 84 has one

paragraph which addresses the transition from old legislation to new legislation. There is no mention of what would happen if two or more forces are amalgamated.

The legislation must include a mechanism that facilitates an orderly transition of responsibilities. Provisions in current collective agreements set up substantial barriers to municipal restructuring. New municipalities created through amalgamations and restructuring must be allowed to freely negotiate with their workforces.

AMO recommends that all existing collective agreements be renegotiated in the event of municipal restructuring. The new municipality must be provided with the opportunities to freely negotiate its own collective agreement to suit the local needs concurrent with existing Labour Relations Act first agreement provisions.

We support the government's intention to include hours of work in legislation rather than leaving these provisions to be determined through contract negotiations. Municipalities expend a great amount on wages. In order to effectively manage the service, employers must have ultimate control over service costs. Subsection 43(10) allows the employer to call in off-duty firefighters in the event of a major emergency.

We caution the committee that the inclusion of such a clause will only result in some form of labour relations action, grievance or arbitration around the definition and redefinition of what constitutes a major emergency. We maintain that the determination of appropriate staffing levels during any given situation should rest with the manager. To avoid the possibility of labour relations action, we recommend that this subsection be deleted.

The existing act entitles full-time firefighters to a hearing before council in the case of a dismissal. We have continually argued that this recourse should be removed since most collective agreements have a grievance procedure to address dismissals. We are pleased to see that the government has recognized the need to treat all employees equally and has removed from the legislation this unique right for firefighters.

As we mentioned earlier, municipal amalgamations must be taken into consideration. Bill 84 does not address how seniority will be determined in instances where fire departments are amalgamated. Based on recent municipal restructuring exercises and the labour complications which have arisen, we strongly support integrating the seniority lists of each department. This would enable each firefighter's true seniority date to be recognized and would result in equal treatment of all staff. AMO has recommended an amendment to the act that addresses seniority provisions, which you will find listed in your report.

AMO regards the introduction of a mandatory conciliation process as a step forward in the harmonization of municipal labour legislation. We are pleased that the government has recognized the need to introduce an alternative dispute resolution mechanism. Municipalities work hard to contain the costs of services. Generous awards granted by arbitrators have seriously undermined these efforts.

A conciliation process is a must. It promotes free collective bargaining over interest arbitration and places more responsibilities on the parties involved. Most



importantly, it brings fire services labour legislation more in line with other labour laws.

However, to bring this act further in line with traditional labour relations practices, we suggest an amendment to the current wording in subsection 53(5). As it is currently written, it is assumed that the total cost of the conciliation process will be shared equally between the parties. We believe the intent of the legislation is that each party pays its own costs relating to legal representation, witnesses etc, and that the parties to the process will split the costs incurred by the conciliator.

A mandatory conciliation process is a positive step towards controlling labour costs. We believe, however, that any arbitration process should ensure mutual risk in the selection of arbitrators and that arbitrators should be neutral in their positions.

According to Bill 84, when a matter is referred to arbitration, regulations will guide the appointment of an arbitrator or arbitration board. In other words, the province will make the appointment. During the various fire service reviews, AMO continually recommended changes to the current system of appointments. We believe that the introduction of regulations to guide the process is a step in the right direction and demonstrates an appreciation of the problems with the current system.

We recommend a formal rotating list which limits the term of provincially appointed arbitrators and designates that the term of an arbitrator only be renewed following a period of time; a system of staggered appointments; the establishment of one pool of arbitrators to oversee all municipal disputes, with the requirement that each arbitrator will be assigned to work in all areas of municipal and provincial employment; and that the appointment of the arbitrator in any dispute should not be subject to decisions of the parties involved in the dispute.

Municipalities have been pressing for more management exclusions from the bargaining unit. We are very pleased that Bill 84 provides for a much wider exclusion of firefighters. The most troubling aspect of the Fire Departments Act is that municipalities, which pay approximately \$780 million of the total \$785-million bill, have their managerial hands tied. The current situation where only the fire chief and the deputy fire chief make up the management team is unacceptable, in particular for larger forces.

Over time, interest arbitration awards have also dramatically restricted the operational and staffing options available to municipalities. We are encouraged to see that any additional managerial exclusions beyond those set out in the legislation are subject to decisions of either the Ontario Labour Relations Board or the municipality itself. From an operational perspective, the additional exclusions make a lot of sense. Again, however, we ask the committee to consider the effects of municipal amalgamations.

Based on the management exclusion formula set out in the legislation, it is conceivable that some fire departments could have fewer managers for much larger departments. We see a need for additional designations to be included in the legislation to assist those departments with larger forces as follows: seven persons if the employer employs 500 or more; nine persons if the employer employs 1,000 or more. New agreements

arising from amalgamations must, as a minimum, also recognize existing ratios of volunteer, full-time and part-time firefighters.

Currently the Fire Departments Act requires that collective agreements continue until they are replaced by new negotiated agreements or by arbitrated decisions. The freeze provisions outlined in Bill 84 must be clarified. We are not certain what constitutes the terms and conditions of employment or rights, privileges or duties of an employer.

Most fire departments issue standard operating procedures to outline how firefighters are expected to conduct themselves in any given situation. We believe that to clarify the intent of this section, it must be stated that no change can be made to the terms and conditions of employment contained in the collective agreement. An additional clause should be included to indicate that the hours of work and management exclusions continue to apply during times of a freeze.

We have some brief comments to make as they relate to the indemnification section, section 85 of Bill 84. First, we believe the intention of this section is to ensure that an individual is indemnified for actions that are job-related. This is not clear with the current wording. Second, section 85 should not apply to disciplinary actions undertaken for labour relations, and we have suggested alternative wording for the committee's consideration. We do not believe that violations of the labour relations sections would merit the penalties that have been set out.

I would like to conclude my remarks today by expressing AMO's overall support for the direction of Bill 84. The proposed legislation reflects many long-standing positions held by Ontario's municipalities. We urge the committee to address the obstacles which continue to exist for municipalities.

The municipal sector is still faced with a limited ability to implement the changes. Without relief from no-contracting-out provisions, we are not in a position to achieve efficiencies; nor can we look to alternative service delivery options such as automatic aid as a public safety measure. Ultimately all of us, the province, municipalities and firefighters, have a common goal and that is to ensure public safety. We urge the committee to consider these comments and suggestions we have presented here today.

**The Chair:** Thank you very much, Mr Mundell, for your presentation. Your time has elapsed.

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#### PETERBOROUGH FIRE DEPARTMENT GORDON HOLNBECK

**The Chair:** Our next presentation will be made by the Peterborough fire department, Fire Chief Lee Grant. Welcome, Chief Grant. I understand you will be sharing some part of your time, so I'd ask you to proceed.

**Mr Lee Grant:** I'm Fire Chief Lee Grant from the corporation of the city of Peterborough. Sitting immediately on my left is former alderman Gordon Holnbeck. He's also the founding chairman of the Peterborough county-city disaster trust fund, which is an organization



that's available 24 hours a day to assist victims of fires and other emergencies. It's a fully fund-raised organization and staffed by volunteers. He's also the proud recipient of the Ontario Medal for Citizenship, and he will be speaking momentarily.

I'll begin by providing a quick personal background which I hope will help you understand my comments.

I have been involved in the fire service in Peterborough since 1980 as a firefighter, a chief fire prevention officer and now fire chief. I have also held numerous union offices, including president, and am currently the district deputy fire marshal for Peterborough county, coordinating firefighting and mutual aid for 14 volunteer fire departments as well as my own.

The Peterborough fire department protects approximately 70,000 population with 84 firefighters, three fire prevention officers and one training officer at a per capita cost of \$85, which I was pleased to hear is pretty competitive in the province. I'm the only non-union member of the Peterborough fire department and report through the director of community services to the city administrator to council. At this point I would say that I would not be in city of Peterborough uniform and/or have this on city letterhead had this report not been endorsed by the city administrator and distributed to our council in Peterborough. As you read it, you can keep that in mind.

The city of Peterborough and Peterborough county are the first non-Metro area in Ontario to receive 24-hour paramedic staffing. This has been the result of very close teamwork between firefighters, administration and the ambulance service to ensure eight-minute defibrillator response 90% of the time through a tiered response agreement. This agreement has caused the number of medical calls for my department to rise from 134 in 1994 to 855 in 1996 and has resulted to date in five confirmed saves. Those people who are alive today would not have been without the defibrillator program. This has been accomplished in addition to the existing firefighting workload with no additional personnel and no budget increases for our department. I am not at all sure that a privatized fire service would be able or willing to achieve these results for the citizens of Peterborough.

In an independent survey the Peterborough fire department is the number one municipal service, in the eyes of the citizens, with 93.3% rating our service as good or excellent. This result has been achieved by close cooperation between firefighters and administration at all levels to promote a highly motivated team of trained professionals delivering service to the citizens they serve.

I fully support the need for the legislative changes necessary to allow for an expanded management team. The legislation must recognize that the structure and size of this team must be a local decision based on a needs analysis and the availability of management expertise within the municipal structure.

As fire chief without a deputy, I am keenly aware of the challenges of managing a 91-member department with a limited management team. I do not believe that taking highly trained command officers from the field and putting them behind a desk, nor placing non-union personnel on the fire ground, is the most efficient management model or in the best interests of the public we serve.

There are many management models which could share other municipal expertise or the use of consultants, as needed, to expand the management team. These can be explored and could be allowed by simply not restricting the number of non-union personnel within the fire department. It may be that currently unionized firefighters have the necessary management expertise and interest and would choose to apply for and fill the management positions created based on need. The fire marshal could, as in other parts of this act, review the management structure of a fire department if necessary.

Part IX of this proposed legislation gives me some concern as it appears to be an attempt to simply move firefighters into the same labour relations agreement with other unionized workers, but without the right to strike or negotiate hours of work. The fire service has never been involved in a strike and is surely among the most innovative users of shift schedules to ensure maximum efficiency and manning levels in a service that operates 24 hours a day, 365 days a year. I am not at all sure the same could be said for the years of experience the province has had with unionized workers under the Labour Relations Act. What is to be gained by moving firefighters under the Labour Relations Act?

There are positive changes to the bargaining process proposed in part IX which may improve the responsiveness of the current system for both parties. However, I believe that part IX should be carefully reviewed, with a priority on making only the changes which will show definite and measurable reductions in cost of operation or improved efficiency of the fire service in Ontario, and not make changes of questionable real value which may help to destroy for years to come the excellent labour-management relationships enjoyed by many Ontario fire departments.

The definition of a fire chief in law has been long awaited and is absolutely necessary in today's world. The fire chief is the person called to account for the actions, and particularly the failures, of the fire department or its personnel in an emergency response situation. The fire chief will be among the first on the stand at an inquest into a fire death and must justify all policies and actions. It is therefore critical that the fire chief have a clear line of responsibilities and authority, along with a clear reporting structure to the municipal policy makers.

The introduction of automatic aid in the proposed legislation is possibly the most significant potential improvement to the level of fire service in rural Ontario since the formation of fire departments. There are many locations in rural Ontario which are protected by township firehalls, many minutes farther from them than the firehall of an adjoining township.

There is, however, a potential for a significant increase in the call rates for some volunteer departments, in particular where rural Ontario meets urban development. Automatic aid, when implemented, will mean that a rural department would likely cover part of the urban fringe area. I strongly support the automatic aid initiative. However, you must be mindful of the precarious position of the volunteer fire service in Ontario and its vulnerability to overutilization, resulting in members being unwilling



or unable to offer the necessary time off work to meet increased call rates.

In addition, many volunteer departments may find themselves geographically closest to a significant fire or chemical spill risk which was not previously in their jurisdiction, and as a result be insufficiently trained, staffed or equipped to deal with this circumstance.

I am concerned that the implementation of automatic aid may not be accompanied by the appropriate pre-planning, training and analysis and may in fact be the demise of some otherwise viable volunteer fire services and may result in the necessity for full-time fire services if not carefully monitored. I believe this monitoring is a crucial role which must be played by the fire marshal.

As a fire chief and a long-time fire prevention officer, I am particularly pleased to see fire prevention and public education mandatory in this proposed legislation. This is clearly the only way to continue to reduce the number of fire deaths in Ontario. Establishing the Fire Marshal's Public Fire Safety Council will allow corporate partnerships to help provide necessary materials and support for these crucial fire prevention and education programs.

I want to take the time to thank the committee for listening to this presentation. This proposed legislation has so many significant gains for the Ontario fire service that I can only hope that the concerns with specific sections of this legislation can be overcome quickly and that Bill 84 is able to proceed to third reading and royal assent in the very near future.

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In closing, I want to assure you that the fire service, both professional and volunteer, in Peterborough and Peterborough county will continue to provide the very best service to the citizens. We appreciate this opportunity to address you today. We hope this presentation is of some help in your deliberations.

I would now ask you to look at the presentation of Mr Holnbeck.

**The Chair:** Mr Holnbeck, you have five minutes, so I would suggest you read rather rapidly.

**Mr Gordon Holnbeck:** Thank you very much, Mr Chairman. I really appreciate the opportunity to speak to you and members of the committee. I did send a letter to the Honourable Bob Runciman and Premier Mike Harris regarding my concerns over some of the contents of Bill 84. They replied promising hearings and here we are today.

First, I commend the government in bringing up to date a number of statutes that have been outdated, actually nine in number, to promote public safety in the province.

My association with the fire department goes back to 1936, as a member of the Salvation Army welfare board for many years, supplying coffee and sandwiches to firefighters when there were major fires. In fact, I was present in May 1951 when four Peterborough firefighters were killed fighting a fire on Peterborough's main street.

Also as a founder of the Peterborough city-county disaster trust fund committee, I worked along with them. I have been greatly impressed with their dedication on the job and going the extra mile in assisting our committees

with details of the occupants of buildings who were displaced by fire, explosion, hurricanes etc.

Today firefighters are faced with far more complex problems, such as auto accidents, medical calls, heart reactivation, explosions, downed power lines and elevator rescues. Rapid response time and teamwork are essential to all of these emergencies.

Section 42, strike and lockouts: "No fire fighter shall strike and no employer...shall lock them out." This clause, in my opinion, should be removed. I have been in Peterborough since 1936 and in all my dealings with firefighters over the years I have never known them to strike in this type of job action. This clause is really a slap in the face to firefighters whose primary concern is public safety. I might also add the corporation of the city of Peterborough has never locked them out.

Section 43, hours of work: This clause is similar to the provisions that currently exist. However, when combined with Section 52 it drastically changes its impact. The result: This legislation specifically excludes hours of work, and in fact any of the working conditions set out in the hours of work section of the proposed legislation, from negotiations. Is this reasonable? Is there any other group of employees who don't have the right to negotiate the scheduling of hours, the total number of hours they work and additional pay for work over and above their normally scheduled hours?

Section 41(1), privatization: The definition of the employer has been changed in Bill 84. It now includes not only municipalities but also persons or organizations that employ firefighters. This will allow for the privatization of fire departments. The fire service should continue to be managed, run and financed by the municipality. The many services the fire department provides do not suit themselves to being provided by a company that has making a profit as its primary reason for being. I would urge you to change this definition to ensure that not only that municipalities are the only suppliers but that they be required to supply this service to the taxpayer in the same way police service is provided.

Section 58, managerial exclusions: Bill 84 will allow more personnel to be designated as managers, reducing the number of personnel responding to emergencies. Section 41(2) states, "A person shall be deemed not to be a firefighter if...he or she exercises managerial functions...." We don't need more bureaucrats sitting in an office. We need more full-time professional firefighters responding to emergencies.

In conclusion, I urge you to make the changes to Bill 84 that I have suggested. I believe that with amendments to correct the problem areas, as I have mentioned, this legislation could serve the needs of the community for a number of years to come. Thank you, Mr Chairman.

**The Chair:** Thank you, gentlemen, for assisting the committee here today.

PATRICK DE FAZIO

**The Chair:** The next presenter is Patrick De Fazio, editor of Intrepid/Fire Line Publications.

**Mr Patrick De Fazio:** Mr Chairman, could I just make one comment before you put the time on me here?

**The Chair:** The time is probably already running.



**Mr De Fazio:** No, it's not running yet. I just want to make a comment that you have two briefs there and because of the time constraints I had to limit it down to 15 minutes. I'm going to be reading from the white brief, but I would ask that in your leisure you would read the entire brief. The red-covered brief contains the exhibits.

Bill 84 is a thoughtless piece of legislation, quickly drafted without complete and proper input, some of which can only lead to calamitous results.

Because of severe time constraints I ask you to take a quick look at exhibit number 6. This is where an experienced team of full-time firefighters from Oakville, wearing self-contained breathing apparatus, went down 100 feet below ground and then proceeded along a 200-foot tunnel to rescue a person who was trapped in dense smoke as a result of an electrical fire. The four-person crew was given lifesaving awards, as shown in the exhibit. Speed, experience and teamwork are the name of the game. The concept of a part-time firefighter as stipulated in the new act will destroy the dedicated full-time team concept. There's a picture of those firefighters right up on the mantelpiece there.

I ask the committee to take a look at exhibit number 3. Six children die in a tragic fire, a coroner's inquest is held and a recommendation is made "that a law be passed by the Legislature of Ontario that mandatory installation of a hard wire/battery smoke detector in all residential dwellings be passed within one year." Testimony was given by an expert witness and subsequently reiterated by the Crown that approximately 16 inquests in the last 10 years have made recommendations concerning smoke detectors. I checked with the appropriate authorities in this municipality and not one individual followed up the inquest recommendation. That includes the mayor, that includes the councillors, that includes the MPP and that includes the fire chief.

I submit that the fire marshal's office for the province of Ontario is also negligent in this area. Five people died in the province of Ontario in December 1996 as a result of no smoke detector or removing the batteries from smoke detectors. This is indicated in the Ontario Fire Watch, prepared by the office of the fire marshal. Over 1995 and 1996 we are averaging 11.16 deaths per month or 268 people over the two-year period. What is in the new act pertaining to this mandatory recommendation of hard wire/smoke detectors? Absolutely nothing. Bill 84 is silent in this regard.

The statement is made by the Solicitor General that the volunteers are the backbone of the fire service in the province of Ontario. I ask the committee to take a look at exhibit number 4. This is where 15 volunteer firefighters walked off the fire ground during the course of a fire in spite of an order by an incident commander to stay and fight the fire. I'm not intending to demean the volunteer firefighters in the province of Ontario, but it must be pointed out that there are serious gaps in this type of service and the truth has to be told.

In another incident a person is stricken with a heart attack while singing in a church choir. Emergency phone calls are made from the church to the designated phone operator. An ambulance is on the way; 20 minutes later another call is made and the caller is assured that an

ambulance is on the way accompanied by the fire department. No one shows up. The caller runs into town a short distance to get the town doctor and he is out. The caller comes back to the church and phones a local fire department and the answer given is that it is outside their jurisdiction.

Another phone call is made to the area fire department where the person in charge says, "We do not take medical assist calls," even though resuscitation equipment is on the apparatus. An ambulance arrives 45 minutes later. The victim died in the interim. I'm not saying that the fire department could have saved this person, but the fact that they refused to respond is irresponsible in the extreme. This is going on all over the province of Ontario and impacts directly on the office of the fire marshal. What is being done about it? What does the act say about it? Nothing. It is absolutely silent.

The irony of this situation is that the person who died in the church was a former volunteer fire chief; the person who refused to take the call was a volunteer fire chief.

#### 1630

In spite of tragic high-rise fires in the province of Ontario where multiple deaths occurred in the stairwells, there is no definitive policy in Bill 84 that recommends to the people of Ontario whether you should stay or go in a high-rise fire. This is another area in which the fire marshal for the province of Ontario is dragging his feet and there is no direction in the proposed legislation. I find this absolutely unbelievable in light of what the coroner has just recently said in the *Toronto Star*, warning of perils in using stairwells. Why isn't there something in Bill 84? Why isn't there something in the act? The bill is silent in this regard. There is a picture up here that shows the condition of the stairwells and hallways in high-rise buildings.

Although the new act contains provisions for mandatory fire inspection and education, it is devoid of any mandatory aspect pertaining to the appropriate staffing of first-line apparatus. The staffing arrangements for the fire service in Ontario are horrendous. As we have said in the past to the fire marshal and various other authorities, we still have apparatus responding to schools, institutions, hospitals, nursing homes and other structures with only one or two firefighters on the initial call. One does not have to explain the danger associated with this type of response.

I recently called a fire department on a weekend where one person was on duty. He identified himself as a part-time firefighter working for \$10.50 an hour, by himself. This is taking place right now and the bill, in its permissiveness, will make it much worse. I do not believe the citizens of Ontario endorse this type of fire service delivery and I also believe the fire marshal has not taken any steps whatsoever to inform the public about this retrograde type of fire service that takes place in many areas across the province.

It is worth mentioning at this point that the new proposed legislation affecting the police in Ontario contains the following safeguard with respect to adequate policing: "The Solicitor General may request the OCCPS (Ontario Civilian Commission on Police Services) to



conduct a hearing into matters of adequacy of a police service, consistent with the statutory mandate of his office for ensuring public safety." I respectfully ask, why the double standard when it applies to the fire service in the province of Ontario?

We have a situation where a full-time fire chief was attending meetings of volunteer contingents and asking them to send in letters of support for Bill 84 as it is written. That particular person is the president of the Ontario Association of Fire Chiefs. First of all, why would this be done? When volunteers are questioned about Bill 84 and the complexities of the legislation they do not understand it, but yet they have sent letters to the government and those letters have been read in the House.

If one examines exhibit number 5 it will reveal that the volunteers have changed their position and have directed their members to send a letter to their MPP which states in part:

"However, we do not support part IX of Bill 84. We do support our full-time firefighting colleagues in the belief that part IX would have a disruptive effect on the firefighting system that the province of Ontario relies on.

"We the Fire Fighters Association of Ontario urge the government to amend part IX of Bill 84, and return to further discussion with the parties concerned."

It is impossible to speak to every aspect of Bill 84 because of the time limits. However, I would now like to speak to the area of part-time firefighters and privatization. The introduction of the part-time firefighter and privatization in the fire service will eventually, if implemented, be the complete demise of the fire service as we know it today.

It is a given that the federal government and the provincial government are openly encouraging the use of part-time employment. The sole purpose of this direction is the potential in the long run for the savings of millions of dollars. This will be accomplished because part-time personnel are paid in many instances the minimum wage or slightly above the minimum wage. In addition, good benefit packages are not the norm and if there are any pension plans, they would be few and far between.

Let's be honest about the introduction of part-time fire fighters. It's all about money, not efficiency or safety to the public as it applies to the fire service, simply money and the fact that they can call these people in to replace the full-time firefighters.

A part-time firefighter in one sense is comparable to a volunteer. They both have another job, or in this economy maybe two other jobs. What does this say about commitment to the fire department? There is none, not in the real sense that you would find with a committed full-time crew of firefighters who work and train together on a continuous basis. To my way of thinking, this is not the type of service where you can shove in part-timers and expect them to have the experience and expertise in so many areas that the full-time firefighters have acquired.

I question whether or not they will get the proper training. It will be hit and miss and certainly not every day, and he or she will be unfamiliar with the apparatus and the myriad of tools and equipment that firefighters use on a day-to-day basis. In short, they will be a hin-

drance and cause confusion on the fire ground or at the scene of an emergency. The full-time firefighter will be wary of what they can do and how it impacts on his or her safety when effecting rescue or extinguishment or confined-space extrication operations, just to name a few.

No, it is not a good idea, and if this committee thinks about it for a while, they will realize that it will be counterproductive. The government will say that this part of the legislation is permissive, which we've already heard today, which means that a municipality does not have to institute part-timers if they do not want to. This is a crutch. Once the municipality gets the green light, they will, over time, systematically eliminate full-time firefighters or certainly a good portion of them. It would be wise for the committee to delete the concept of a part-time firefighter from Bill 84.

The question of privatization in the fire service is an open invitation to death and destruction. I make these statements not to be an alarmist but to tell you that this is a seriously misguided concept with the sole aim to provide a service and turn a profit for the owners of the company. It is entrenched in very few places in North America and many reports exist concerning its inefficiency and extended response times.

The main thrust of this type of venture is to tell a municipality that they will provide the service for half the cost. But how is this done? If the municipality gives them the go-ahead, they will gather all of the employees into one area and tell them that if they want to work for the new company, the wages are going to be reduced by 50% and certain benefits will not be provided. If you are interested, that's fine. If not, there are hundreds of people outside waiting to take the job.

Under these conditions, the fire service in the community will suffer irreparable harm. The morale will plummet and those working will do so in a perfunctory manner. A reduction in staff will diminish appropriate crew sizes, causing considerably more time for emergency tasks and thereby placing the public at greater risk. I predict that many lawsuits will be applied to municipalities if they contract out the fire service to a private company.

In light of everything that has been said and what could have been said if enough time had been given, I am asking this committee to recommend that Bill 84 be tabled and that a commission of inquiry be instituted immediately in the province of Ontario.

On July 27, 1994, the Ontario Professional Fire Fighters Association called for a commission of inquiry. The Ontario Association of Fire Chiefs support a commission of inquiry; see exhibit 2. The Harris government supports a commission of inquiry; see exhibit 1, page 2, last paragraph. The Liberal Party supports a commission of inquiry, and if I were to ask the NDP, I'm sure they would support a commission of inquiry also. So why not do what is appropriate in the circumstances and recommend that Bill 84 be tabled and commence with a commission of inquiry into the fire service in Ontario?

I would conclude, Mr Chairman and members of the committee, that not all fire chiefs are supportive of Bill 84 in its entirety, notwithstanding the position taken by the president of the Ontario Association of Fire Chiefs and the fire marshal for the province of Ontario. If I had

more time, I would love to talk about those two individuals for a while. These are respected chiefs and deputy chiefs in the province of Ontario in spite of the "rebel" tag that has been applied unfairly to them for speaking out against Bill 84. I applaud them. They should stand proud if they are labelled as rebels for coming here and speaking out against Bill 84, and I would say there would be more of them if there wasn't any fear of retribution against them in their careers where they work.

I would ask you to read one excellent letter in this connection that you will find in exhibit 7. The following is an extremely important excerpt from that letter:

"As we get closer to the time when the proposed legislation will be referred to committee and public hearings, it is extremely important that you, the members of the government and all of the members of the provincial Legislature, understand that the bill is fraught with difficulties and bodes ill for the future of the fire service in this province. You should also be aware that the legislation is not blindly supported by all fire chiefs in this province, as some would have you believe."

I would also like to point out that the letter is signed by the chief and the deputy chief of the Windsor fire department, a very respected fire department. The deputy chief of that particular department, whom I admire as the deputy chief — his name is Patrick Burke — has presented more briefs to this government, more briefs to arbitration in the province of Ontario, was chairman of the OMERS board for over 10 years or so and is very well respected in fire service circles.

If you take a look at this letter and read what is said in this particular letter, I am sure it will change your mind with respect to what you're going to do with respect to Bill 84.

I'd also like to take this opportunity to thank Peter Ferguson for appearing here today and making some of the comments he made. One of the comments he made in the newspaper is that as far as the labour relations were concerned —

**The Chair:** Excuse me, Mr De Fazio, could you wrap it up? Your time is up.

**Mr De Fazio:** Okay. I just wanted to say it was a draconian approach to labour relations. Thank you very much.

**The Chair:** Thank you very much for your presentation here today.

1640

#### NORTH YORK PROFESSIONAL FIRE FIGHTERS ASSOCIATION

**The Chair:** Our next presentation will be the North York Professional Fire Fighters Association, Jim MacIntosh. Welcome, Mr MacIntosh. I compliment you on the first page of your presentation; it's very attractive. If you would proceed.

**Mr Jim MacIntosh:** Good afternoon, ladies and gentlemen. I am Jim MacIntosh, and on behalf of the men and women of the North York Professional Fire Fighters Association, I would like to thank you for the opportunity to speak to you today about Bill 84.

This piece of legislation has our members very concerned. It will have an impact on the safety of the

citizens we serve, the safety of our members and our ability to negotiate with our employer.

There are positive aspects to the legislation, namely, part II, section 2: mandatory fire prevention and education programs. This is a proactive approach to addressing the lack of fire prevention and education programs, especially in the smaller municipalities of the province. This initiative does not come without a price attached. The funds necessary to implement these programs must be addressed in the legislation.

The provincial government has proposed with this legislation to allow the private sector to become involved in this area. The private sector would have to be competently educated in the chemistry and the characteristics of fire, the fire code and municipal bylaws to assume the responsibility for properly educating the public and enforcing the standards.

The provincial government has recognized the need to improve these programs. What is needed are the funds to initiate a program and trained professionals to do a proper job. The larger municipalities have the trained personnel to address this initiative. The problem arises in the smaller communities of the province. An alternative may be to establish fire prevention inspectors and fire safety educators who could share their expertise on a cost-recovery basis.

Automatic aid agreements, part II, subsection 2(6): The changes made to the Municipal Act, section 7, would allow a municipality to enter into an automatic aid agreement with a neighbouring municipality. It would allow for the initial or supplemental response to fires, rescues and emergencies in another municipality where the first municipality is capable of responding more quickly than any fire vehicle in the other municipality.

Most municipalities have mutual aid agreements already in place. The problem arises when one municipality has paid for and developed an adequate fire protection system of highly trained and well-equipped staff who are then required to supplement the neighbouring municipality. The taxpayers in the properly staffed municipality who have paid for this level of service may have their safety compromised to some extent by this arrangement. What is needed is a cost-recovery agreement to compensate for the service provided and a letter of understanding stating that this service be limited to extenuating circumstances.

There are a number of areas in the bill which have the firefighters in Ontario very concerned.

Part IX contains significant changes in the area of firefighter employment and labour relations. Make no doubt about this: These changes will not only be detrimental to the working conditions of the firefighters; they will have a significant impact on our ability to perform our job properly and in a safe manner. As a result, this legislation will jeopardize the safety of the citizens we serve.

Section 41, the definition of a firefighter, would allow the use of part-time firefighters. The full-time firefighter in Ontario is expected to be a professional who is highly trained and experienced to perform to the best of his or her ability. The training of a professional firefighter is an ongoing daily responsibility which is not taken lightly.



Practical exercises and theoretical lectures are an important part of ensuring that we have the best-trained people responding when we answer the call for help. As an officer for the North York fire department, I do not take this responsibility lightly.

Our training division staff conduct courses to ensure that our personnel maintain a high level of competence. New areas of expertise are being introduced on a regular basis. Recertification in first aid, CPR, defibrillation and driver training are ongoing programs. It would be extremely difficult to ensure that the part-time firefighter received the training he would need to perform properly and safely on the fire ground.

It is extremely important that you understand that firefighters rely on each other. It is a team effort. You would not expect a medical student to fill in for a heart surgeon under emergency conditions. Fire ground experience cannot be emphasized enough. A part-time firefighter would have limited time to gain the expertise needed to perform properly when required. One of our concerns is, how are we expected to do our job properly and safely if we are unsure that the other person will be able to back us up?

I believe the intent of introducing part-time firefighters was to supplement staffing when manning levels are down. Even without considering the training and experience issues of a part-time firefighter, consideration must be given to the fact that this would not be a reliable alternative. A part-time firefighter could not be available to respond in a timely fashion on a 24-hour basis, seven days a week, 365 days of the year. A part-time firefighter may have a full-time career and family commitments which would take precedence.

Section 53, mandatory conciliation, would require the bargaining agents representing firefighters to go through a system of conciliation where a government-appointed conciliator is required to mediate collective bargaining disputes before the matter can be referred to interest arbitration. However, unlike trade unions and employees under the Labour Relations Act, firefighters and municipalities would be required to each pay one half of the cost of the service of the conciliation officers.

The present system of interest arbitration has proven to be fair and equitable to all parties to date. The firefighters of Ontario, after enduring numerous attempts to resolve collective agreement issues at the bargaining table over periods of months, are presently expected to wait for an arbitrator to be appointed to resolve the issues independently. These costs have been shared equally but at great expense. The conciliation process would further delay the process. It would add a further financial burden to both parties, it would not be binding on either party, and it would change the present system of the two parties appointing the chair of the proceedings.

The interest arbitration process is the only avenue the firefighters of Ontario have to take after negotiations have broken down. There have been no labour actions taken, nor would it be contemplated under the present Fire Departments Act. It would be morally repugnant to any professional firefighter to not perform to the best of our abilities.

#### 1650

Section 43 and section 52 would exclude negotiations over the hours of work. The fire department would arrange the hours of work in a shift or platoon system. The number of hours could be increased to 48 hours in an average week. Presently firefighters work an average of 42 hours a week. The general population is not asked to work this number of hours. It would be at the exclusive discretion of the employer to increase the hours of work or to change the shift arrangement. I am unaware of any other organized group of employees who cannot negotiate their hours of work. This is discriminatory.

Subsection 41(2) exclusions provide that persons who perform managerial functions or who are employed in a confidential capacity in matters related to labour relations are deemed not to be firefighters.

Subsections 58(1) and (2) provide that the employer may identify certain persons as managerial or confidential. The labour relations board is to determine whether the person in question does in fact perform managerial or confidential functions. The board's decision on this issue is said to be final and conclusive for all purposes.

Subsection 58(3) allows the employer to designate a limited number of persons, depending on the number of firefighters employed in the department. This designation would not appear to be subject to review by the labour board.

The bill states that persons designated in this way are "conclusively deemed to be exercising managerial functions" and can be identified by the employer "in its sole discretion." It is therefore conceivable to conclude that the employer could determine not to use its automatic designation authority to exclude the chief and the deputy chief since the employer would likely be able to convince the labour relations board that these persons exercise managerial or labour relations authority and therefore are to be excluded on that basis. This could mean that the designated persons would be in addition to the chief and deputy chief. Persons deemed to be excluded should be clearly defined.

These people would not be allowed the rights and protections which they presently have as members of the bargaining unit. Their only choice would be to accept the position or quit.

In many fire departments in the province, the positions of deputy chiefs and fire command positions are not being replaced. We believe that by removing these firefighters, it will have an impact on the team concept of the fire service.

Subsections 43(9) and (10): The call-in provision extends the employer's ability to call in firefighters in emergencies. The existing provision allows that firefighters may be called in under certain situations. The new provision would allow the employer to call in firefighters as a result of any major emergency.

This proposal should be considered in light of the change in the definition of a firefighter. It could allow the employer a staff of both full-time and part-time firefighters, which could in turn allow fire stations to be staffed at different levels at different times of the day. This is a recipe for disaster. We would not know who, how many or when the firefighters would be responding.



Why would these changes be made that could cause an interruption in the quality and delivery of fire services to the citizens of Ontario?

Please consider the proposed amendments to the Fire Departments Act. The present act has allowed the fire service to resolve issues in a spirit of cooperation which has served the citizens of Ontario well.

On behalf of the men and women of the North York Professional Fire Fighters Association, I would like to thank you for the opportunity to express our concerns.

**The Chair:** We only have one minute per caucus.

**Mr Kormos:** I'm following you while you're reading yours and, again, this proposition of not being able to negotiate working hours is a strange sort of affront and contradiction to what most of us have believed in in terms of the ability to negotiate contracts. It's also strange because, referring to the previous presenter's brief, he's got a copy in here of the response that the Premier made to the questionnaire from the Ontario Professional Fire Fighters Association. The Premier — or Mike Harris as he was then, because he was running to be Premier — is asked if normal collective bargaining will resume after the social contract and he responds, "Full collective bargaining in the public sector will resume upon the expiration of the social contract."

When I read that, I presume that to mean including the right or ability to negotiate hours of work. Is that an unfair interpretation of that on my part?

**Mr MacIntosh:** Like I stated, I believe this is discriminatory because it appears that we would be the only group that could not negotiate our hours of work. I believe anyone working 42 hours a week is working a sufficient number of hours in a week, and to be going to some system where you could be working 48 hours a week seems to me to be awfully regressive.

**Mr Ron Johnson:** Thank you, Mr MacIntosh, for your presentation. I want to say, a number of your points I do agree with, a number of the concerns that I've heard from firefighters, in particular those leading towards privatization. But the one that I'm having difficulty trying to wrap my mind around is this part-time argument that you're getting and how that somehow will erode the teamwork approach that is currently being used by fire departments.

I look at the briefing we had today: There are 645 fire departments in Ontario; 127 of those have a combination volunteer and full-time complement. It is arguable that they work very well together and in fact that the teamwork and that concept hasn't eluded volunteer/full-time relationships. Help me understand why a part-time firefighter would not be able to work in the same team environment that currently is being worked in with the volunteer fire departments and the full-time ones. Why couldn't it work with part-time?

**Mr MacIntosh:** We wouldn't have a problem working with a part-time person if the person was properly trained and had the experience to do the job properly. You cannot work at a professional job, a profession, and do it on a part-time basis. You must have the experience. You must have the knowledge of the job.

In the city of North York right now, our department is having a very difficult time keeping up with the training for the 645 members that we have. We are currently

going through recertification for all of our CPR, first aid, defibrillation, and we're also going through a new system now where we have computer-aided dispatch. We are taking on more responsibilities as far as hazardous materials are concerned and that involves being trained to the NFPA 472 level. These are very time-consuming —

**The Chair:** I'm sorry, the time is up for that question.

**Mr Ramsay:** Just commenting on Mr Johnson's question, I think that's an excellent question, and we got an excellent answer. I think there's a real lack of understanding with some people in Ontario of how professional a firefighter is today. The body of knowledge that you started to rhyme off that is necessary to carry out your functioning as a firefighter is enormous. There's just no way, in a big urban fire department, that a part-timer is going to be able to keep up to speed with the training and the skills that are required.

I just don't understand why the government thinks that somehow the way a lot of our small towns work, with volunteer fire departments that seem to work fine in small-town settings, can somehow be applied to a larger urban centre. It just can't.

The other thing that really concerns me is that with the whole thrust of this bill we're seeing such a split among people involved in fire suppression in Ontario. We've had the fire chiefs association come out primarily for this bill, but now we've had some major fire chiefs across this province — Windsor, Toronto, Peterborough; I'm sure we're going to hear others — who are very afraid of this bill and think it's going to really break up the teamwork approach that firefighting has had in this province.

The government has really got to rethink this. Mr Klees had said he thought my claim was outlandish this morning when I demanded the bill be withdrawn. I'll just say right now, I'll pass the bill tomorrow; just withdraw section 9 and we could get to work on that. Give yourselves time to work on that. Let's pass the rest of the bill. Let's give ourselves some time to work on section 9 because there are a lot of good things in this bill, but this poison pill part of section 9 I think is going to destroy firefighting in this province.

**The Chair:** Mr MacIntosh, thank you very much for your presentation here today.

1700

#### ANCASTER FIRE DEPARTMENT

**The Chair:** The town of Ancaster fire department, Fire Chief David Guilbault. Welcome.

**Mr David Guilbault:** Thank you for allowing me to speak here today on this very important legislation, Bill 84. My name is David Guilbault and I am the fire chief for the town of Ancaster.

I joined the fire service in 1972 in the city of Ottawa as a probationary firefighter and remained in the suppression division for the next 15 years. In 1987, I was instrumental in creating one of the first fire department public education divisions in this province, and it's still very active today in the city of Ottawa.

In 1989, I was appointed deputy fire chief for the city of Kanata. In 1990, I was presented with the Solicitor General's fire prevention award in the Ontario Legislature for outstanding achievement in public education in fire



prevention. I'm presently the only fire chief in this province with that award.

It's extremely important that you, the members of the Ontario government and all members of the provincial Legislature, understand that Bill 84 is filled with difficulties and is harmful for the future of the fire service. I only have 15 minutes, so I'll deal with the major issues from my point of view.

You should be aware that the contents of Bill 84 are not supported by all fire chiefs in this province. Furthermore, the position of the Ontario Association of Fire Chiefs is not the position of every fire chief and deputy fire chief in the province, and it's certainly not the position of the fire chief, or the deputy fire chief, of the town of Ancaster.

In Ancaster we take pride in working towards a cooperative relationship. We believe we were being successful, and all sectors in our community are reaping the benefits of an honest, open and cooperative relationship. In fact, we have established management committees. These are unionized people. We have finance committees. We have training committees. We have vehicle and equipment committees. We encourage our firefighters to participate to build the present and the future of our fire department.

I feel there are groups and organizations throughout this province that will use the present contents of Bill 84 maliciously in the reorganization of their departments, and one does not have to look past eastern Ontario to find examples. The proposed legislation appears drafted to foster confrontation and encourage disagreement. This is very troublesome and disappointing.

Following are some of the major areas of concern with respect to Bill 84. Part I: There is no definition of a deputy fire chief. When I looked around this room this morning I saw several fire chiefs here. I'm just wondering who's running the ship if they're here in Toronto.

I have a definition for the record and I'll read that: "There shall be a deputy fire chief who shall be appointed by the council of the municipality or the councils of the municipalities, who shall act in the stead of the fire chief if he or she is absent or unable to act and when so acting has all the power and authority of the fire chief, and the deputy chief shall be a firefighter as defined in this act."

There is no clear definition whether the fire chief is also a firefighter. The fire chief and the deputy fire chief must be firefighters as defined in this act. Is the police chief not a police officer? It's my understanding that he or she is.

If there have to be exclusions from the bargaining unit, management positions, these persons must remain firefighters as defined. I guess I have to question too, if there's no need for a deputy chief, there's no definition, then I guess we have to question whether there should be a deputy fire marshal or, for that matter, a deputy minister.

Part II, responsibility: Subsection 2(7) states, "The fire marshal may monitor and review" and "may make recommendations to the council of the municipality." This should read, "The fire marshal shall monitor" and "shall make recommendations to the council of the

municipality." The present wording is very wishy-washy. It is the duty of the fire marshal to monitor and review. If municipalities have inadequate public education and prevention, and there is a threat to public safety, then the fire marshal should be making recommendations, not "may."

Canada being number two in fire deaths per capita in the industrialized world is certainly nothing to be proud of. You gave the fire marshal the responsibility, now give him the authority.

The same applies to subsection 2(8): "The fire marshal shall" — instead of "may" — "respond to the minister and the minister shall act upon the recommendations and report to the fire marshal."

Part III, fire marshal: Move section 9(1)(a), the power "to monitor, review and advise municipalities," to section 9(2) and make it a duty. I'd like to refer to what 9(1) says. It's very brief.

"Powers of fire marshal

"9(1) The fire marshal has the power,

"(a) to monitor, review and advise municipalities respecting the provision of fire protection services and to make recommendations to municipal councils for improving the efficiency and effectiveness of those services."

There are clauses (b) to (g). That should be put in the duties of the fire marshal.

Section 9, firefighters and labour relations —

**Mr Kormos:** Excuse me, Chief. Mr Chair, it's unfair for the chief to be making a submission when there's no quorum here.

**The Chair:** You may be preventing the chief from making one. You have a right to call for a quorum.

**Mr Kormos:** There's nobody to listen to him. The Liberals are represented; the New Democrats are represented.

**The Chair:** There is now a quorum. Please proceed, sir.

**Mr Guilbault:** In part IX, firefighters and labour relations, there are two definitions of firefighters. Both are different. This is confusing. Decide on one definition. There is no definition of a strike or lockout. How do you even know if you have one? Strikes and lockouts should be clearly defined. Being a professional firefighter and member of an association, I'm also appalled at the fact that someone would consider firefighters striking in this province. I think it should be removed completely.

There is no definition of a major emergency, section 43(9). Each council in a municipality sets its level of service, whether that be full-time, composite or volunteer. A major emergency in Ancaster, such as a multivehicle accident with several persons trapped, versus a fire involving four floors in an office tower in downtown Toronto are obviously different. Each community has different staffing levels and defines major emergencies differently. A clear definition is required. The fear is towns or cities will under staff to allow for call-back. You can't order people back. I see this as an area of abuse.

Hours of work: Firefighters should be permitted to negotiate their hours of work. No other public sector employees are prohibited from negotiating hours of work.

Another area of possible abuse: changing of shift schedules, forcing firefighters to work longer hours with

increased demands on the fire service to respond to emergencies other than fire; for example, medical calls. Some departments have seen increases of over 50% in medical calls in the past several years. The potential exists to have tired firefighters injured and be less productive when dealing with emergencies. Tired firefighters are accidents waiting to happen.

Sections 58(1) and (3) will lead to difficulties where fire chiefs are being dictated to by CAOs, chief administrative officers, or supercommissioners, and again you don't have to look past eastern Ontario to see examples. Staff cannot be forced in and out of a bargaining unit on an acting basis.

Some fire departments have already begun restructuring and this bill is not even law. They plan on excluding captains, who are front-line staff, from the bargaining unit. These departments have acting captains, in some cases two per platoon. First of all, captains and lieutenants should not be excluded, as they are front-line firefighters. Then there's the question of the acting captains. If captains are excluded, then you will have acting captains in and out of the bargaining unit. While it may be necessary to allow bargaining unit exclusions, in section 58(3) there's an opportunity for significant abuse.

1710

Section 58(1): As indicated earlier, this process is being started in several municipalities even though Bill 84 has not received royal assent, and this is very disturbing. As I said earlier, captains and lieutenants must remain members of a bargaining unit. They are front-line emergency response personnel.

It's interesting to note that most modern organizations are streamlining, or as we say, rightsizing, and looking to remove bureaucracy at the top. Yet this bill could allow a fire department to be top-heavy with managers. It's certainly dinosaur thinking. I know one department where, if this bill goes through, over 40% would be in a manager status. In the town of Ancaster I could be at 30% managers.

Privatization: The existing law says nothing about privatization. Privatization is not even contemplated. In fact, the Fire Departments Act is predicated on the assumption that municipalities run fire departments. There are many horror stories with respect to privatization, from airlines to garbage collection. In fire services where privatization has occurred there have been instances of questionable billing practices, fire trucks without water on board, a 30-minute response time and — this is one that's very disturbing — a house burning to the ground but then the homeowner is billed over \$13,000 to cover the cost of personnel and equipment on the scene.

Private companies in the United States have been known to charge close to \$1,000 per household only to provide suppression duties. In comparison, in the town of Ancaster the average household would pay \$58 for fire protection, fire prevention and public education.

Residents and visitors to Ontario enjoy a very high quality of life. Privatization would certainly put this in jeopardy, and our government, with its Common Sense — there's no common sense here.

In summary, I'm extremely concerned over the direction the proposed legislation is taking in fire service labour relations and the quality and delivery of service to

the citizens of this great province. This bill appears to be a cut-and-paste. There are double definitions, there are no definitions, there's no flow or continuity. Our ultimate goal as a fire service is to provide the best possible fire protection, fire prevention and public education for the citizens of Ontario. Bill 84 is far from accomplishing that goal.

We've all lived with the Fire Departments Act for over 50 years. We'll probably have to make do with this act for the next 50 years. Let's take our time and make sure we do it right. Thank you for your time and patience.

**The Chair:** Thank you, sir. We have one minute per caucus, and it will be one minute because we must move on.

**Mr Ron Johnson:** Understood. I'll be very brief. Thank you for your presentation, by the way. I just want to ask you, when you talk about management exclusions and putting people on the management level, do you see it as appropriate for about 1,300 firefighters in Metropolitan Toronto to have only two employees currently classified as managers? That would be my first question. Do you feel that it should have a number of people that are adequate enough to facilitate the size of the department in terms of management staff?

**Mr Guilbault:** I get what you're saying. I think each municipality, each fire department, has to be looked at on an individual basis. Certainly when you look at the city of Toronto — and I shouldn't be speaking for them — when you see 1,300 firefighters, if you only have two managers, that's obviously very difficult. But there is a possibility of abuse the opposite way, and I gave you examples. That's my concern. I guess with the present legislation there's room for abuse. I don't want to name the cities, but I know of cities where this has already started and this is not even law yet.

**The Chair:** We must move on.

**Mr Ramsay:** Thank you, Chief, for your presentation. It was a great presentation and you've given us some very solid ideas. I think your last comments are something that the committee needs to think about and rethink about as we go through these deliberations. We've had nine or so acts in the past that may be outdated now but have served us very well in the past, and we have an attempt to consolidate and to bring something forward that, as you say, we'll probably be stuck with for 50 years. So why don't we just catch our breath for a minute and relook at this, especially when we see the division that's among chiefs, among firefighters, among municipalities in this province, and get it right. That's really sound advice.

I'm sort of saying to the government that the way to do that would be to get the good parts of this passed right away and we could agree on a time frame to get the labour relations, section IX, worked on too. But let's maybe not do it all in one day; let's get the rest of this done and then take our time. I think that's wise advice and that's the advice I give to the government also.

**Mr Kormos:** There are some consistent themes that are starting to develop here in but a few hours. I suspect they'll be strengthened as the days go through this week and into next. Thank you kindly, sir.

**The Chair:** Thank you very much, sir, for attending here today.



## WILLIS BLAIR

**The Chair:** Our next presentation is Mr Willis Blair. Welcome, Mr Blair. Mr Ramsay has just pointed out to the Chairman that he is some half-hour behind. I apologize to members of the committee for that. Please proceed, sir.

**Mr Willis Blair:** I'm not here as a firefighter or former firefighter but as one who has been in municipal life, or was for a good many years, in East York. I had a close association with the fire service there and of course in Metro as well.

I think repealing the various acts relating to the fire services and their consolidation is a very good idea, but hopefully it will be done right. My concerns are ones that have been already expressed today. Whether repetition is a good thing, I don't know, but sometimes it is.

I'd mention the fact that the district chiefs are part of the bargaining unit and I don't think they should be. I've always wanted this, for about 25 years. My people are in management and are members of the bargaining unit. I think they should be out and hopefully that will be done here.

If management is going to do the job the way they should, they should not have to run the possibility of a conflict of interest. The deputy chief — apparently this is an oversight; at least I attributed some savvy to the people who drafted this bill. If the deputy chief's position is not included, I think it should be, and I'm sure that will be corrected when the amendments come in — if it isn't, it could lead to some very nasty situations some time — just by including the deputy chief and the responsibilities that he will assume in the absence, vacation or illness of the chief will be spelled out.

The hours of work: I've had some negotiations with fire departments in the past, so I speak from that experience only. I think section 52 says, "The parties may bargain in respect of the remuneration (including pension benefits)" — and I presume other fringe benefits as well — "and working conditions of members of the bargaining unit but shall not bargain in respect of the working conditions described in section 43." I think there's something inconsistent about that. That should be done locally with the unit, because situations are different one municipality to the other and having hard and fast rules in here may be detrimental.

In section 41 — that's already been alluded to already — it says, "'employer' means a municipality, person or organization." Depending on where one comes from, I suppose they could interpret that in any way they want. What does that section infer? We hear a lot about privatization these days in various government areas and I hope that is not something that's going to be slipped in through the back door here. Privatization envisions a whole lot of problems and I would think the insurance costs — I don't know whether it's spelled out in here — are something that should be a concern of everyone.

In Metro, and of course that's where my experience has been, although I come from a small community in western Ontario where they have volunteer services, one can't help but be reminded of one's experience with dialling 911 where there has been a problem. All of us

have had some situation where it required emergency service, whether it be sickness or an accident or whatever. I've had some really beneficial experience with the emergency service, and who is the first service to respond to a situation? It's usually the fire department.

My neighbour, a few years back, had a heart attack at 5 in the morning. It was a German couple who had difficulty with the language. The wife called and my wife went up and massaged the person's heart and I did the calling. Within a matter of two or three minutes they were right there and before the fire truck stopped in front of the house the staff were in with the ventilator. It was obviously a lifesaving situation there. We can all recount instances of that kind. It's the professional people who have the training, and since that particular instance I'm alluding to, the training has been really advanced and they can do an even better job.

1720

I'm not going into the labour business. That's been pretty well explored today. There are little technicalities there from time to time that annoy people, but I think when this whole thing is discussed, the matter of amalgamating the various acts is a good thing. People will know where they're at and not pitting one against the other. But surely the hearings that are being conducted here today and tomorrow and I guess in other places in Ontario will likely draw or develop a theme within which some of the amendments that are necessary to correct some of the deficiencies or omissions can be looked after.

The protection of life and property is a very important thing, and hopefully the amendments that are being proposed here are not necessarily a money-saving thing. How can you put a price on a life or a person's property? I'm not saying they should go hog-wild, but there has to be a certain amount of discretion shown here and I'm sure it will be. I think this is the first run at Bill 84, and in the next few weeks I'm sure there will be some amendments that will satisfy most people.

That's about all I have to say. I'm speaking not as a firefighter — I have no axe to grind there — but as one who's been involved with the fire service in another capacity. I think there are a few things here that were likely an oversight, and hopefully they will be corrected as the hearings go on and the committee gets down to work on it.

Are there any questions? That's all I have to say. I'm speaking as an outsider.

**Mr Ramsay:** Thank you very much, Mr Blair, for your presentation. I'd like to ask a question first of Mr Carr, and you had mentioned that you think there are some oversights there, some technical oversights. The deputy fire chief, for instance, is not mentioned at all. I was wondering, Mr Carr, are there some sort of technical amendments that you would already see some deficiencies in the bill that you've already decided on that maybe you could bring forward now? Obviously you want to listen to everybody as far as any substantive amendments are concerned, but are there some things now that you see wrong with it that you'd want to bring forward pretty shortly?

**Mr Gary Carr (Oakville South):** No. Obviously that's what this whole process is about. We appreciate

you pointing those out and we'll bring them forward, as you heard the minister say. But there aren't any at this time.

**Mr Ramsay:** So they'll come out later. Mr Blair, as you can see from all you've heard this afternoon, there's a lot of disagreement about all this. I was wondering if you had any idea of how you think the government should maybe resolve this. It looks like they haven't fully consulted with a lot of people in working something out that the majority of chiefs could agree with, and firefighters. Would you have any ideas from your experience how maybe the government can kind of patch this up?

**Mr Blair:** I don't know what some of the differences are between a really urbanized area or a rural area where there are volunteer departments, but I think the members themselves on this committee and in the Legislature will have sufficient experience with dealing with the local situation that they can do something about this. You're not going to get perfection no matter what you try, but you try to do your best, and I think as long as the fire service as we know it, especially in the urban areas here — we take them for granted, that's one thing, unless there's a fiasco some time or there's a late return or call to an illness or something. I think just a little bit of fine-tuning will take care of it.

**Mr Ramsay:** Okay. Thank you very much.

**Mr Kormos:** Thank you kindly, Mr Blair. I wonder if you would flesh out a little bit of your background. You're coming here and I want people to understand that you're obviously coming here with some very significant experiences of your own, if you'd flesh that out for us just a little bit.

**Mr Blair:** I was in municipal life for 18 years in East York and Metro Toronto, as mayor for a couple of terms, and I've had other provincial experience as well, as some of you likely know. When I inquired of some of my firefighter friends what this was all about, they shared some things with me and they said: "Well, maybe you'd like to come down. Would you come down?" Well, here I am.

I think the presentations that have been made this afternoon and the ones you'll hear tomorrow, and I understand there are hearings in other parts of the province coming up shortly — you don't have to change everything. Just be careful.

**Mr Kormos:** Thank you kindly, sir.

**Mr Blair:** There's a gentleman here from the Toronto Hydro. I told him I'd be about six or seven minutes at the most and he wanted to fill in my time.

**The Chair:** Mr Johnson might have a question and then we'll let you go.

**Mr Ron Johnson:** Just briefly, under the current legislation, as you may know, there is no mandatory requirement for fire prevention or public education programs, and Bill 84 makes that mandatory now. If municipalities are in a situation where a part-time person to do public education programs is sufficient in smaller communities, do you feel that municipalities should have the option of hiring someone part-time to provide that type of program?

**Mr Blair:** In the smaller communities, I would say yes.

**Mr Ron Johnson:** Currently they can't; you know that. Currently they are unable to do that.

**Mr Blair:** It's a specialized field, and I would think that one person whose specialty is that could do several municipalities, several small areas at once, on a fee-for-service basis or whatever.

**Mr Ron Johnson:** Thank you, sir. I appreciate it.

**The Chair:** Thank you very much, Mr Blair, for being a private citizen and taking your time to come before us and assist us in our deliberations.

**Mr Blair:** I see some of my old cronies when I come down here.

1730

MISSISSAUGA FIRE FIGHTERS'  
ASSOCIATION  
JOHN MOSSA

**The Chair:** Our last presentation: I exercise my discretion as Chairman in making a spot for the Mississauga Fire Fighters' Association simply because they represent a large number of firefighters in the Metro area and the only way to get them in the schedule was by adding them to the end of the day. We will now have their presentation.

**Mr Larry McPhail:** Mr Chairman, on behalf of the Mississauga Fire Fighters Association, I sincerely thank you and appreciate the invitation extended to us. My name is Larry McPhail and I am the president of the association. Today I have with me Martin Goodkey, who is the secretary of the local and committee chairman of our benevolent fund organization that has raised over \$3.5 million and distributed it back into the community in the last 15 years. John Mossa is the president of the Muscular Dystrophy Association of Canada in Toronto. He is going to start off and say a few words. He is in a time window here with Wheel-Trans so I'll let him go first.

**Mr John Mossa:** Thank you very much. I want to thank the committee for this opportunity to speak to you about my concerns on Bill 84.

I have two main concerns. They are public safety, especially for persons with disabilities and seniors; and the morale of firefighters as very important community-based volunteers. Therefore, I am strongly opposed to Bill 84 and the changes it makes to fire prevention and safety.

I have become involved with fire and safety issues because of the important partnership and support firefighters have from Muscular Dystrophy. When Bill 84 came out, firefighters were very concerned about the changes to fire prevention and safety. I too share their concerns, which leads me to my very first point, public safety.

I feel that Bill 84 jeopardizes public safety, especially for people with disabilities and seniors, because the bill makes it easier for municipalities to understaff fire stations and short-staff emergency vehicles, which means additional firefighters will be added only after an emergency occurs, which would slow down response time to emergencies, which would cost human lives, especially for people with disabilities and seniors who need the extra time in a fire evacuation.



There is a compounding problem here as well. Not only is the response time longer, but with hospitals closing down, it may take emergency vehicles longer to get to hospitals. In addition, Bill 84 introduces part-time firefighters, which would cut the number of fully trained professional firefighters. This threatens the safety of disabled people and the elderly because part-time firefighters will be less experienced and trained in dealing with fires and fire evacuation.

As well, I think reducing the number of firefighters and using part-time employees to fight fires will undermine teamwork. Teamwork is vital for saving lives. Studies have shown that key factors in emergency situations are rapid response time, fully staffed emergency vehicles and effective teamwork. This leads me to my second point.

Bill 84 will begin not only to undermine teamwork but will begin a process of demoralizing a very valuable community-based volunteer: the firefighter. Firefighters are very important stakeholders to many non-profit organizations such as Muscular Dystrophy, burn units, food banks and many other organizations. Under Bill 84, with the reduction in full-time firefighters, I could also see a reduction in the amount of volunteering they will do. I know it is not because they don't want to; it's because they will be unable to due to Bill 84's effect on staffing and employment.

In summary, I care about fire and safety issues because of my concern for people with disabilities and seniors, as well as the impact of fire and safety, and the morale of full-time firefighters as valued public workers and important community-based volunteers.

I think Bill 84 is a piece of legislation that looks at cutting costs instead of safety issues. If so, I think this is a shortsighted way to save money when it may cost municipalities and this province more money in the long term with a potentiality of increase of injury and death by the public and firefighters.

I would like to thank the committee again for this opportunity to speak.

**Mr McPhail:** Thank you, John. Following my introduction, I would state that I am a firefighter with the Mississauga fire department in my 25th year of service. I hold the rank of captain and am presently president of the Mississauga local, representing 500 full-time firefighters. I sincerely thank you for the opportunity to make comments on specific sections of Bill 84.

Not to restate what you've already heard, but this is a very complex bill, bringing together nine pieces of former legislation into one very large bill. However, eight of these acts are primarily standards, codes and regulations, and that being the case, probably deserve to be studied and integrated.

There is, however, one standalone piece of legislation, that being the Fire Departments Act, which deals with the structure, definition and labour relations aspects of the present fire department and fire services in Ontario, a document seven pages long which has served to create a model of fire service excellence for the residents of the province for over half a century, which is to be repealed and replaced with 23 pages of labour relations gobbledegook in part IX of the proposed bill.

There are those who have stated that the Fire Departments Act is outdated and no longer effective and workable. I would say to Hazel McCallion that nothing in this bill has impeded the progress of her fire department and her services to the community of Mississauga in all the years I have been there. I say, as a front-line firefighter and officer, that those people do not understand, nor appreciate, the service and how complex it is at an operational level. As a multi-service provider they should leave it alone.

The fire service is a pragmatic, quasi-military organization. It is slow to change, and rightfully so, for the life and fire safety of citizens and workers can never be taken for granted. The fire service has worked hard to closet the many cavalier practices of our past and move dramatically forward in its ability to provide state-of-the-art fire and emergency service delivery.

In my brief tenure in this profession, the service has moved from one that literally arrives on the scene and puts wet stuff on red stuff, and you've heard that today already. We carried wrecking bars for auto extrication and we administered first aid with a Canadian Tire first aid kit and a resuscitator. Today fire and emergency services are science- and technology-driven, requiring highly skilled and trained teams to be able to deal with the complexities of auto extrication, high-level rescue and high-angle rescue, water rescue, in every situation fire suppression and control, hazardous material containment. If I may just add here, at the present time about 60% of our calls are medical calls. Bodily fluids are now hazardous materials. In the area of first aid we have expanded our knowledge and capabilities embracing the technology and the tools of defibrillation with the potential to bring people back to life.

In Mississauga we've had our failures: two major nursing home fires with large losses of life, Extencicare in 1980 and Meadowcroft 14 years later. We've also had our successes: the Mississauga derailment, a major fire loss but with the successful movement of a quarter of a million people without one fatal incident.

To the business of Bill 84: The blending together of those pieces of regulatory and codifying legislation is likely worthy of review and probably long overdue. I concur and share the interests of those whose concerns are with fire prevention, investigation and most certainly public education. In Mississauga the firefighters' benevolent fund organization cofunds the Learn Not To Burn elementary school program.

With respect to the repealing of the Fire Departments Act and replacing it with the proposed part IX in the new bill, "Firefighters: Employment and Labour Relations," I wholeheartedly disagree. I cannot see that this in any way will enhance the fire service and the delivery of that service to the residents of the province. If it ain't broke, don't fix it.

The late Dr Eric Taylor, for years adviser to government and labour organizations, expounded a common-sense and practical method of testing the value of change. He called it his threefold test that simply asks the following questions: Are the changes morally sound? Are the changes legally defensible? Are the changes reasonably practicable? If the changes do not meet this testing model

and method, then beware. There is, however, again a pragmatic model here that some people believe, because we're in the 1990s, shouldn't apply. Pragmatism is outdated. I am not one of those. I am a hands-on firefighter and I know what works in my profession.

Time does not permit going through part IX clause by clause, but I will attempt to demonstrate with a couple of examples, beginning at the start of part IX, definitions, subsection 41(1): "firefighter" — one word — "means a person regularly employed on a salaried basis in a fire department and assigned to fire protection services and includes technicians but does not include a volunteer firefighter"; compared to the definition of "fire fighter" — two words — in section 1 of the Fire Departments Act: "full-time fire fighter" means a person regularly employed in the fire department on a full-time salaried basis and assigned exclusively to fire protection or fire prevention duties, and includes officers and technicians."

Question: Why so many changes? Today's fire service, like all other professions, has evolved into a service of specialization and certification. We provided lots of literature to the government. There's no mystery there. Reconfiguring the definition of a firefighter to be a jack or jill of all trades and ignoring the differentiations in the service won't work — not reasonably practicable and not morally sound judgement, in my view.

The removal of the word "full-time" suggests a system other than full-time. Our system works and is effective and efficient because of three factors, those being speed, experience and teamwork. The job cannot be done better in any other way. I, as a concerned practitioner, state this. Removing officers from the firefighting team will reduce the effectiveness. It's as simple as that: not reasonably practicable.

Part IX, subsection 52(1): "The parties may bargain in respect of the remuneration (including pension benefits) and working conditions of members of the bargaining

unit but shall not bargain in respect of the working conditions described in section 43," which happens to be hours of work. You've heard this before.

In the existing Fire Departments Act, subsection 5(1), it is understood that working conditions include hours of work. Why, in this proposed bill, are firefighters precluded from bargaining a fundamental right, the right to determine hours of work? In my view, blatantly morally wrong.

I urge you take the time to apply the simple, practical and humane testing method to review and considerations of the amendment to the existing Fire Departments Act. I can assure you that the proposed changes will fail Dr Taylor's test model.

What else can I say? I stand firmly with and alongside my sister and brother firefighters in opposition to part IX of the proposed legislation. It can, in my view, only lead to significantly compromised emergency service and ultimately major risk to the taxpayers and the public of this province. My personal suggestion is to remove part IX in its entirety, for it is so convoluted it cannot possibly be fixed, and leave in place undisturbed the model of fire and emergency service excellence presently in place for the citizens of Ontario.

I sincerely thank you for taking the time to listen to this presentation. I urge your thoughtful consideration. I know that your work has just begun. You have a difficult task ahead of you, but perhaps I've provided a tool and a method that will make your deliberations a little easier.

**The Chair:** Thank you very much, gentlemen, for your presentation here today.

There's a matter of travelling arrangements that a couple of members have raised afterwards, otherwise we are done today. I am adjourning till 10 o'clock tomorrow morning in this room.

*The committee adjourned at 1742.*











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## **Legislative Assembly of Ontario**

First Session, 36th Parliament

## **Assemblée législative de l'Ontario**

Première session, 36<sup>e</sup> législature

# **Official Report of Debates (Hansard)**

Tuesday 8 April 1997

# **Journal des débats (Hansard)**

Mardi 8 avril 1997

**Standing committee on  
administration of justice**

**Comité permanent de  
l'administration de la justice**

**Fire Protection and  
Prevention Act, 1996**

**Loi de 1996 sur la prévention  
et la protection contre l'incendie**



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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Tuesday 8 April 1997

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Mardi 8 avril 1997

*The committee met at 1007 in room 228.*FIRE PROTECTION AND  
PREVENTION ACT, 1996LOI DE 1996 SUR LA PRÉVENTION  
ET LA PROTECTION CONTRE L'INCENDIE

Consideration of Bill 84, An Act to promote Fire Prevention and Public Safety in Ontario and to amend and repeal certain other Acts relating to Fire Services / Projet de loi 84, Loi visant à promouvoir la prévention des incendies et la sécurité publique en Ontario et modifiant ou abrogeant certaines autres lois relatives aux services de lutte contre les incendies.

**The Chair (Mr Gerry Martiniuk):** I call the meeting to order. I remind members of the committee that these meetings start at 10 o'clock in the morning, and we have just lost 10 minutes. It's really important this afternoon that we start at 1 o'clock. We have a very heavy afternoon, and there are those who are taking a flight to our next location in Thunder Bay this evening, so I remind you that our meeting this afternoon will start at 1.

The first matter I'd like to raise with the committee is the petitions introduced to the committee by the two firefighters' associations in Ontario. They were presented to the committee and are in the committee's possession. However, the committee has no procedure to annex those petitions to our report, nor do we have facilities for storage, for that matter. I am suggesting, if there is no objection raised, that the petitions be returned to the associations so that they may use them as they see fit. Is there any objection to proceeding in that manner? If not, I shall proceed and instruct the clerk to do so.

**Mr David Ramsay (Timiskaming):** Maybe to be helpful, not to have these things being moved back and forth all over the place, if it was okay with the associations, I'd be quite happy to take a portion of those directly to my office, where I could bring them forward in the House at the appropriate time.

**The Chair:** If you have written authority from the firefighters' associations, that can be arranged. They'll be at the clerk's office.

**Mr Gary Carr (Oakville South):** The only thing I might suggest on that is, as you know, there were different cities brought forward and some of the individual members may want to present them, from Owen Sound and the different ones. I don't know how logistically we can do it, but I think some of the association folks are here. They can do it either way, whichever way, but there may be the potential for some of the individual members of all three parties to table them.

**The Chair:** Yes, Mr Carr. That will be up to the firefighters' associations. The documents are now theirs, and if they wish to give them to individual members — I have presented similar petitions in the Legislature on behalf of the Cambridge firefighters — that may happen, but that will be totally up to them.

ARTHUR DESPARD  
NANCY HOWSON

**The Chair:** We are now proceeding, and our first presenter is Arthur Despard. Welcome.

**Mr Arthur Despard:** Thank you for allowing me to speak on this matter. I will be speaking a short time, so I may catch you up a little — but I won't because I'm introducing Nancy Howson, who is sitting beside me here, and we will be utilizing most of your 15 minutes.

My position is from an insurance standpoint. I've been 47 years in the insurance business. I consider myself a professional in the insurance business. I've been president of the society of FIICs, which is the graduate society, and the Insurance Institute of Ontario, which is the teaching group, and also I'm now on RIBO's council, which is the brokers' regulating group. In spite of this, I don't think I can speak on behalf of the insurance business, but I can speak of my own personal concern with the effect of Bill 84 as it applies to the insurance business.

In particular, my concerns are in the proposed reduction in the number of professional firefighters and the potential of replacing those professionals with part-time help. In talking about reduction, I'm certainly in favour of reductions in every place possible in municipal areas and in government in general. Certainly in the private enterprise area reductions have been going on, as you know, for many years, but the reductions I think are mainly in the administrative end, in the part that you don't see quite so often. You don't want to see firefighters. I've managed to see them three times in my life. I've been very impressed with what they have done. They have been most professional. They have been of great help certainly to myself and I know to many others.

In reducing, I don't think you reduce the providers of a service that is as important as the firefighter service, or the police for that matter. The business of reducing services to the public and services to a client from my standpoint has to be really from the administrative end as opposed to the direct service end. An additional 20 minutes, for example, standing in line to pick up a renewal for your car licence is not quite the same as waiting an additional 20 minutes for a firefighter to arrive. We're talking about reducing the number of firefighters in a truck from four to three, which is a 25%



reduction, maybe replacing that third one with part-time help, and I can't see that part-time help can be as professional as the true firefighters that I've met up with and that you see every day on CITY-TV doing their thing. They really deliver a great service.

The question I guess we have is, if we reduce by 25%, is the service going to reduce by 25% as well? The answer is obviously no. It will reduce by something but maybe not 20%. It may reduce by 10%, it may reduce by only 1%, but look at some of the statistics. Ontario firefighters are successful in 40,000 resuscitations a year. Is it okay to miss 10%, 4,000 who don't make it, or 1%, 400 who don't make it? What is the acceptable number of deaths caused by the reduction?

Over 22,000 fires are put out each year, but at what stage? The difference in response time of three to five minutes will result in at least double the damage. In Canada, the total property losses last year exceeded \$3 billion. Where this total includes natural disasters, such as windstorms and floods, the fire departments are still there, being of great assistance in windstorm and flood damage.

The remaining fire loss, say \$1.5 billion, is very substantial: 10% of that is \$150 million if the reduction would cause a 10% reduction in service; 1% of \$1.5 billion, which is, let's say, the fire loss, is still \$15 million. As people who have some idea of what the insurance business is like, you know that the rates will go up by at least the \$15 million to recoup the service. My question is, will the reduction in costs of taking one professional off the trucks be made up by the \$15 million and by probably 400 extra deaths?

**Miss Nancy Howson:** I'm here to speak to you today on two matters. First, as a nursery school teacher, I teach two- to five-year-olds and every year we have a mandatory safety unit. Part of the curriculum is a visit to our local fire station. At the fire station, the firefighters go into great detail with the children as to every aspect of equipment they use. They make the children feel comfortable that when they put on their masks and all their other gear, they're not monsters; that when they see them coming through to rescue them in a fire, they don't run and hide. I hear from parents every year that the children come home after the visit to the firehall and teach their parents things about what to do in a fire that they didn't even know. I am quite certain that somewhere down the line, with the visits to these fire stations that my nursery school takes, and mine is not the only nursery school that does it, these guys have saved a life. Unfortunately, I have no data to prove that point.

It is also important that these fire stations and the firefighters remain intact. They are an integral part of our community. We stress to the children in the school that if they are lost, if they are hurt, that is the best place to go: to the fire station.

On another point, in 1991 my father was ill and stricken with cancer. We were endeavouring to take him to the hospital ourselves when he passed out. We didn't know what to do. We were in a panic. I dialled 911. Within two minutes the firefighters showed up at the door and gave him the much-needed oxygen that he had to have in order to survive, and then rushed him to the

hospital. My mother and I were alone that night. There is no way we could have gotten him to the hospital by ourselves. Even if we had managed to get him to the car, I am certain he would have been dead en route.

The argument can be made that he was stricken with cancer, he didn't have long to live. They saved him so that we had between three and four more months with him. That's very important to a family member. I cannot tell you how important it is. They were gentle, they were kind. They calmed him, and they were nothing short of incredible. I thank these guys because they gave me some more time that I wouldn't have had.

**Mr Peter Kormos (Welland-Thorold):** I've got to tell you, I still haven't got a handle on what the government anticipates by way of a part-time firefighter. There may well be statistics about peak times. Whether there are beats me; we haven't heard about that yet. But you're right, who wants to be a victim of the stats if a fire or another crisis happens to occur off peak time? Do you know what they mean by a part-time firefighter?

**Mr Despard:** As a matter of fact, I was a little confused because I have a cottage up in the Georgina area and they have of course a volunteer fire department. Is that what they mean by part-time? Certainly volunteer fire departments are very well-trained individuals, which I found when I set fire to my cottage.

**Mr Kormos:** You didn't mean it that way, did you?

**Mr Despard:** Not quite that way, no.

**Mr Kormos:** Either you're going to staff a fire department, which means 24-hour — because it's nuts to talk about staffing it on a part-time basis three days a week. That's wacko. You're asking people to schedule their crises for Thursday, Friday and Saturday. That's nuts. Either you're going to staff it full-time or you haven't got a fire department. Is that fair?

1020

**Mr Despard:** If you have part-time firefighters who are fully trained etc, they're probably full-time firefighters again, professionals, and that would probably work out fine. How do you fit the part-time guy into the team of firefighters, who obviously work well together? Everybody knows that. You can get all sorts of individuals, but they're not going to win the Stanley Cup, are they?

**Mr Kormos:** I'm pleased that you're here, though, as a member of the insurance industry. You're a broker, I presume.

**Mr Despard:** That's right.

**Mr Kormos:** I like brokers a lot more than I like insurance companies. Here you are. I'm surprised that the insurance industry per se hasn't been more outspoken, because increased losses — we're talking property losses now — mean increased loss costs for the insurance industry. They have an interest and so does the consumer — this is very cynical, but from a pure dollars-and-cents point of view — in maintaining quality professional firefighting services, don't they?

**Mr Despard:** I fully agree.

**Mr Carr:** Thank you very much for your presentation. As you know, one of the parts of this process is to make some of the changes and amendments that hopefully will improve the bill. I wondered if you had any specific sections or amendments that you think would be helpful

that you'd like to pass on and share with members of the committee. Are there any specific areas in some detail that you think can make this bill better?

**Miss Howson:** From my dealings with the fire department, which have been over the course of about four or five years, these guys work exceedingly well as a team. To hire part-timers I think would damage the team. Even when I take a group of school children in, I notice that the right hand knows exactly what the left hand is doing. In the situation with my father, the right hand knew what the left hand was doing without even telling, without even saying. It was almost ingrained.

I can't think of a specific section, but that's just the one thing I would like the committee to bear in consideration. These guys work as a team. They know each other. They spend time within the fire station and out of the fire station. To break up the team I think could cause serious repercussions.

**Mr Ramsay:** First of all, Nancy, thank you very much for coming forward and bringing your very personal story to us about your occurrence with firefighters and how they intervened in a tough family situation and saved the day for you. It really is interesting that probably of all the public sector workers in this province the firefighters are held in extremely high esteem by the people of Ontario and it's sad to see the government doing what they're doing to firefighters in Bill 84.

Arthur, thank you for coming. You asked the rhetorical question, how many deaths are acceptable in trying to find efficiencies and cost-effectiveness in rearranging the whole pattern of work with firefighters? My answer to that would be very obvious, that no death is acceptable. It is never acceptable to put people at risk, regardless of how much we don't like paying taxes. You're from the private sector, but I think you appreciate as a taxpayer that there are certain core functions that government must remain in. There are certain core functions that government must remain in because the public sector is there to do the public good, where a private company such as yourself, you're there to do well, you want to make a profit, and that's fine. But there is certainly a distinct difference between them and that's why we have core functions that are delivered by government and have to remain so.

This government seems to feel that just about any function of government could be privatized, and I really think that's wrong, because the mandate is different for a private company, as it is in a public sector operation.

The point here is that it is never acceptable to gamble with people's lives or people's property. The protection of lives and property has to be one of the paramount functions of government. Bill 84 is, as I said, sort of the son of Bill 26. It's another anti-labour but also cost-cutting exercise that in this case — as you say, it's not just inconveniencing people, that you may have to stand in line an extra 20 minutes to renew your driver's licence. When it comes to the response time of a fire department, not one minute longer is tolerable, because one minute doubles that fire.

**The Chair:** I see our time is up. Thank you very much for sharing your opinions and experiences with the committee.

#### SANDY STIENECKER

**The Chair:** Sandy Stienecker, welcome. Please sit down, make yourself comfortable.

**Ms Sandy Stienecker:** My name is Sandy Stienecker; I teach at George Brown College. I teach people who are training to be child and youth workers. That is, they work with children who are criminal offenders, children who are emotionally disturbed or street children. I'm opposed to Bill 84 because I think it will seriously weaken what I see as a really important community service.

I have to admit that since coming here from the United States about 20 years ago, I have taken for granted the firefighters' excellence here in Ontario. It hasn't been something I've had to rely on often; however, what motivated me to make an effort to come here today was a recent experience that I had at the college.

I was standing by an elevator, minding my own business, when a student hollered out from the stairwell, "I need a teacher." I ran over to the stairwell and there was a young man lying on the floor in the stairwell of the fourth floor. I went over to see what the matter was; he was clearly unconscious although his eyes were open, his pulse was beating. I was scared.

Another teacher came up behind me. I said, "One of us better get help." She said, "You." I ran; she stayed with the young man. I went and I called the school nurse and called 911 in that order and then I ran back and said, "I'll go down and wait for whoever comes first to help us out here," and did so.

I ran down four flights of stairs, through a lobby. I'm 50 years old, so I wasn't sprinting. By the time I got to the front of the building the firefighters were at the curb and four of them, all in big gear, came running up to me. I said, "I'll lead the way." We went charging up; we got to the stairwell and opened the door. I don't know how to say all of this and make it sound like it happened in a split second, but it did, so try to picture it. We opened the door and as we did we saw that the school nurse was bent down over the young man who had been unconscious the last time I saw him.

What we saw instead was the young man rise up, take the school nurse and hurl her against the wall and leap over the balcony of the stairwell. Before I could even let it register in my brain what was happening, all four firefighters, not one of them, not two of them, but every one of them, in unison, grabbed this young man's ankles as he went over the stairwell. They stood there, hanging on to his ankles, and he was a very large young man. We later found out that he had taken some drugs, was suicidal.

He was fighting their attempt to pull him back over the railing, and I don't how to describe it, but flipping like a giant fish or something which was exerting a lot of strength. The four of them were not only hanging on to him, but one of them was yelling instructions at me about what to do, what to do with the people around us and so on. He then hollered out to me, "Go down and wait for the police and the ambulance people," who they were expecting.

I ran down and waited a very short while for the ambulance people, but we were probably by this time talking another three or four minutes. We also waited



much longer than that for the police response. I stayed and waited for each of those people to come. They went back up. They had by this time subdued the young man and put him into a protected shelter and so on. What was really amazing to me, though, was the split-second nature of it. If we had been a split second later, this kid would have been dead on the ground floor of the college. There would have been no second chance at all.

1030

I like to tell stories and when I tell this story the response I get without question each time is: "Of course, the firefighters are always the first ones there. What do you expect? You expect the police to be there first? No, it's the firefighters." I had expected in fact that the ambulance would be there first. If the firefighters hadn't been there and hadn't been able to work as a team the way they did, this young man would have been dead.

As a child and youth worker, I don't know how much you know about that field, but it is critical for us, if I'm working with a young offender or if I'm working with a gang member, if I'm working with a kid who has a serious mental illness which includes some violent reaction, I have to be able to trust my co-workers to watch my back, and it's not like we have time to sit and talk about what we're going to do with the kid. We have to know how the other person is going to respond and you have to trust them inside your gut. I don't know how to describe it in professional terms, but it has to be an instinctive dependence on each other. I saw that with these firefighters. If they had had to take the time to respond to each other verbally and check out who was going to do what, he would have been dead. They had to know instinctively how to trust each other, and they did that.

As a teacher at a college, as a child and youth worker, I also have seen what has happened as we have had to rely more and more on part-time workers. It has decreased our ability to work together as a team. If someone is only there part of the time, I don't develop the same relationship with that person, just because they're not there. I can't get to know them. We don't have enough time working together to develop the relationship so that this kind of trust and intuitive understanding of each other's actions becomes automatic.

That's really dangerous with children who are in trouble. It's even more dangerous in the case of the firefighters, where there is not a second. If they had had to talk to each other about it and have a meeting before they did it, even for a split second, he would have been dead.

I'm concerned about several parts of the bill. One of the men earlier asked, you know, specific language. I don't know specific language in relationship to this bill. I assume that the men and women who work as firefighters probably are your best experts on that because they know what they need in order to work effectively together, and I can only urge you to listen very closely and specifically to them. I do know that I'm concerned about several parts.

I'm also, like the speakers before me, concerned about the part-time element of the bill for the reasons I've just stated.

I'm also extremely concerned about the privatization aspect of the bill. I feel that, again as a child and youth

worker and as a teacher, and coming from the United States, and I was a social worker in the United States, I've seen what privatization does to social and health services. It's axiomatic that if you privatize something the emphasis is placed on maximizing profits. That's what it's about; that's the reason for its existence, so it would be naïve in the extreme to think they wouldn't cut costs.

I've watched it here in this province in regard to day care services. Profit-making centres cut costs by cutting the quality of food, cutting the quality of care and so on. There's nothing inside of me that tells me firefighting would be any different. You can convince yourself that cutting down, making things part-time etc won't affect service; I have never seen it to be the case, so that's an area of concern for me.

I don't have much more to say other than my very personal experience, but I wanted to say it and I wanted to say it strongly. To be frank with you, it's out of my gratitude and frankly my complete awe at what I saw that day. I don't think I've ever seen anything quite as amazing as their saving this young man's life. Thank you very much for your time; I appreciate it.

**The Chair:** Thank you. We have about one minute per caucus. Are there any questions from the Conservative caucus?

**Mr Carr:** One minute doesn't leave us very much time, in fact no time.

**Ms Stienecker:** I'm sorry.

**Mr Carr:** No, it's not your fault. The time is certainly not your fault. But I did want to thank you for coming and relating this story and this personal experience. We can probably hear hundreds of stories similar to this —

**Ms Stienecker:** I'm sure you will.

**Mr Carr:** — but we thank you for coming forward with that. We wish you luck and we really appreciate you taking the time out of your schedule to do that.

**Mr Ramsay:** Thank you also for relating your story. I think for a lot of us who only occasionally maybe see a story about a major fire in a newspaper and that's our only understanding of what fire departments do, we really need to hear more stories like this. Through the series of hearings we have heard and will hear stories of, "I called and four guys came up and we just had this little thing here and isn't that a waste?" You give us, through your anecdote, how that team of four firefighters worked as a team, because when you get that call you don't know exactly what to expect all the time.

As you were relating it and I was following it, it looked like they were just going to have to deal with resuscitating an unconscious young student and then all of a sudden the situation changed. I think it's that quick thinking and that teamwork of that squad of firefighters that came in there that exemplifies what we're trying to protect here. While somebody in a piece of paper said, "Why would you be sending out four people?" in this particular case, four were probably needed. Maybe in another case only three were.

But again, why would we gamble on that and put people's lives in jeopardy? I think that's really wrong and I hope through this maybe people like the Ontario Association of Fire Chiefs might understand this a little

bit and get away from that control-and-command syndrome they seem to be buying into.

**Mr Kormos:** Thank you, Ms Stienecker. This is an incredible — you're relating very viscerally and quite frankly a little emotionally. At least, that's my response.

**Ms Stienecker:** It was emotional.

**Mr Kormos:** I'm sure it was, because we felt that here.

The message we're getting out through this process is that firefighters are sort of the Swiss army knife of public services in that they're multifaceted, they do all sorts of things and you can never really anticipate. They don't know, they inevitably don't have a clear image of what they're arriving at or what they're travelling to before they arrive there.

**Ms Stienecker:** Precisely.

**Mr Kormos:** Nobody likes paying taxes. Nobody likes paying the plumber. Nobody likes paying the dentist. But at the end of the day, when people understand that they're getting incredible value for dollar, in firefighting services along with a whole range of other public services, I think we all better take a deep breath and understand that we're getting economies here that you don't get in jurisdictions like the United States with private services. We ain't seen nothing yet in terms of cost and a declining quality of service, and you have, so I appreciate your comments and I'm sure a whole lot of firefighters do too. Thank you kindly.

**Ms Stienecker:** I happily would pay more taxes in order to keep those services. I'm a homeowner and I know what I'm saying.

**The Chair:** Thank you very much for taking the trouble to attend here today. We appreciate it.

1040

#### CITY OF SCARBOROUGH

**The Chair:** Our next presentation is the city of Scarborough, His Worship Frank Faubert. Welcome.

**Mr Frank Faubert:** Good morning, Mr Chair, and members of the committee. I'm joined by Scarborough's fire chief, Tom Powell, and our director of human services, Alan Deans.

On behalf of Scarborough city council and the residents of the city of Scarborough, I am pleased to have this opportunity to appear before the committee today, to outline Scarborough's position on Bill 84.

As you know, except for a few minor amendments, the Fire Departments Act has remained virtually unchanged for almost 50 years. In recent years, there has been increasing concern on the part of Scarborough council that the existing legislation does not adequately address the needs of both the fire service and the public. In our view, the proposed legislation contains some positive steps forward in public fire safety.

At its meeting held on January 9, 1996, Scarborough council adopted the resolution which is attached as appendix A to this presentation. Specifically, council is seeking the authority to establish a strong fire department management team based upon job function, where the burden of proof related to the test of "management

responsibility" is balanced between management and labour.

The proposed part IX, sections 41(2) and 58(5) and others of the legislation, is consistent with good management and current business practices, as well as the managerial exclusion concepts under the current Ontario Labour Relations Act.

Previously, council also petitioned the government for the inclusion of a "management's rights" clause in the legislation, particularly as it relates to staff complement and determination of the level of service in the community. Clearly, these matters are the exclusive responsibility of the council, and we would respectfully request that the bill be amended to specifically articulate these rights.

You will find a resolution dated April 27, 1992, attached as appendix B, which outlined additional concerns of the Scarborough council.

Council is pleased to see that the need for a review of the current arbitration process and for some rational direction to the firefighters' interest arbitration have been effectively addressed in the proposed section 53 under conciliation. Further to this, section 54(7) establishes appropriate criteria to be taken into consideration by an arbitrator or an arbitration board. This is consistent with schedule Q of the Savings and Restructuring Act, 1996.

Council is optimistic that Bill 84 will be a positive step forward in relation to the collective bargaining process which prevails in our other bargaining units.

The bill also provides local municipalities with other significant opportunities, including the option for council to delegate responsibility related to collective bargaining, if deemed appropriate. Under the legislation, municipal councils would also have the option, in the event of a termination of a probationary firefighter, to either review the matter themselves or to appoint a representative to conduct a review. This is a reference to section 44, termination of employment, within the bill.

It is our understanding that firefighters' associations are concerned about the legislation as originally introduced. While we support the concept and principles upon which Bill 84 is founded, there are certain areas which require clarification or elaboration.

Section 52, scope of bargaining, would seem to specifically exclude negotiations over hours of work, and indeed any of the working conditions set out in section 43, hours of work. Because of this, there is apparently a fear that hours may be increased to 48 hours in an average workweek. Just for the record, the matter of hours of work is one which is already addressed in the current city of Scarborough collective agreement. Scarborough council has not contemplated hours greater than the current 42 hours in the average week, and this section of the legislation should clarify the intent.

In part IX, the definition of "firefighter" would appear to include both full-time and part-time firefighters, so long as they are employed regularly on a salaried basis. The inclusion of a category related to part-time firefighters may enhance our ability to provide fire protection services, but further clarification would assist both the corporation and the association in understanding the intent and scope of such a category of employees.



Section 41 provides a very broad definition of "employer," including a "person or organization" as well as a "municipality." The transfer of emergency services does not appear to be compatible with the normal motivation of a profitmaking enterprise. Scarborough council would only contemplate recommending this provision be utilized with extreme caution.

Many organizations, groups and individuals, including Scarborough city council, have been calling for changes to the outdated fire service legislation for many years. Bill 84, with some modification and clarification, provides the flexibility for each municipality to deliver the appropriate level of fire prevention and protection services in an efficient and cost-effective manner.

It is the opinion of the Scarborough council that this legislation is urgently needed and the city of Scarborough looks forward to providing the vital services which we would be mandated to provide under the act. We urge the government to adopt the Fire Protection and Prevention Act, 1996, with appropriate amendments.

**Mr Ramsay:** Welcome, Mayor Faubert. Nice to see you again.

Thank you very much for your presentation because I think it's very balanced. I think we would all agree — not only around this table but in this room — that it's certainly long overdue for major changes to the myriad of firefighting legislation in Ontario and that consolidating into one bill is a good idea. There are a lot of very positive changes in this bill that certainly we could all support. In fact, you've come in with some very good ideas that would alleviate some of the fears for sure of firefighters, and I find those are very helpful.

It's sort of sad to see that the government has embarked upon this process as they also have on a process that you've been very intently involved in, that they haven't really consulted as was promised and barged ahead, and have really brought through a bill that while having some very good points to it is terribly flawed and especially in the section that you cite, the labour relations area, section 9. You've brought forward some ideas here that could help, because the firefighters are very concerned about the inability to negotiate hours of work.

As you point out, while you want to see some more positive collective bargaining process in place on behalf of municipalities, and I was going to ask you about that, but then on the next page you said hours of work are something for sure that firefighters should have the ability to negotiate. I was very pleased to see Scarborough's intention, at least contemplating, not to increase hours of work. But the point is that should be something that's bargained between the two parties for sure.

**Mr Faubert:** Exactly.

**Mr Ramsay:** Sometimes it's give and take, and that's fine. Those hours might change, but something else is given on the other side. I think that's where we want to keep it. We want to keep the collective bargaining process fair and open for both sides. You've been very helpful here and have given me some ideas that I will certainly use as a basis for some amendments down the road. Thank you very much.

**Mr Kormos:** Thank you, sir. During the last election campaign I spoke very directly in Welland and Thorold

with firefighters about what I anticipated and what is now subsection 54(7), because it appeared in a Tory private member's bill. You know, you're like the Tory backbenchers who when Stockwell's making rulings in their favour, he's a good guy, but all of a sudden, if he rules against them, he's a bum. Read this morning's papers, you know.

**Mr Faubert:** The Speaker is really independent.

**Mr Kormos:** You can't have it both ways. I mean, collective bargaining, give me a break. When there's no right to strike, you're really talking about a very modified form of collective bargaining. You can't have it both ways. Forfeiture of the right to strike, in my view, is offset by submitting to the arbitration process.

**Mr Faubert:** Right.

**Mr Kormos:** I was on city council a long time ago too and I understand how councils — once again, I've been there, done that. When the arbitrator rules in council's favour, "That's a damned good arbitrator." If he rules on behalf of firefighters: "He's a bum. He's obviously in their back pocket." You can't have it both ways, sir. Look at what subsection 54(7) does:

"The arbitrator...shall take into consideration...:

"1. The employer's ability to pay in light of its fiscal situation....

"3. The economic situation in Ontario and in the municipality."

I'm sorry, but this new standard, this is a very novel new — of course if it's new, it's novel. It's a very novel, unique standard to be applied to arbitration. It's going to end up telling firefighters that their work isn't as valuable as the community and arbitrators have perceived to be in the past. It's going to be telling firefighters to pick up the slack, along with other public servants, for a government's fiscal policies, including its commitment to a 30% tax break for the richest. I hear what you're saying about arbitration and I understand why you're saying it. I'm sympathetic to municipalities, but you understand I don't agree with you.

**Mr Faubert:** I understand.

**Mr Kormos:** No, not by any stretch of the imagination. I've heard this too many times from employers as a result of too many arbitrations.

What this bill does is jig arbitration very much in favour of the employer, because a municipality that wants to play the game of zero tax increase for pure electoral purposes — again, I understand that. I understand that city councillors are closer to the electorate than other levels of elected officials. They're the ones who take the heat. They're the ones under real pressure. They're the one who engage in all sorts of sophistry and game playing to avoid property tax increases.

But we had a person here before you, Ms Stienecker, who says she'd gladly pay more taxes if it meant maintaining quality firefighting services. Quite frankly, I would too. Do I like paying taxes? Not by a long shot; nor do any of the people in this room or any of the thousands of firefighters across the province, but damn it, they're taxpayers too. They're the ones who live in the communities that they work in and pay property taxes.

I don't agree with that proposition. This subsection 54(7) is a really insidious attack, in this case on fire-

fighters, on public service workers. It's an attempt to devalue their work. It's an attempt to turn them into something far less than what they've worked hard for and aspired to and successfully achieved, that level of professionalism. It suggests that somehow firefighters, and it'll happen to others too, have to bear the burden. They're the ones who have to take the hit. They're the ones who have to pay the price because a city council hasn't got the political courage to acknowledge that certain costs are there and have to be funded.

City councils all over the province — not all of them — rather than taking on this government and saying no to the downloading of this government are somehow thinking that they're going to be further ahead by playing the game and getting so deep in the back pocket of Mike Harris that they're spitting out lint, and to the contrary.

1050

**The Chair:** On that note, Mr Kormos, I believe your time has elapsed. If we could move to the government.

**Mr Kormos:** I've only just inhaled.

**Mr Faubert:** I can appreciate Mr Kormos's position on this matter and he's gone on the record.

**Mr Carr:** Thank you very much for your presentation. Obviously in light of what's going on, I know how busy you are and I appreciate your taking the time. I also wanted to compliment you on the resolution. It's very thorough. Usually resolutions don't get into as much detail, but you've been able to make a resolution that does express the wishes of the council.

If you don't mind a little bit of indulgence, I want to get a little bit way from this particular bill and talk about what we almost are here with, the whole issue of Toronto. As you know, one of the concerns that people have relates to the costs — which is a big part of your budget, the fire services — with the amalgamation. There are those who think it will save money because, as you know, you've got different levels, and where we'll end up on the fire service, whether we'll go to the highest or go to the lowest or whatever, will really dictate whether there are going to be any savings as a result of the amalgamation.

As somebody who is intimately involved in this, what do you see happening with regard to firefighters' wages during the amalgamation when we've got Scarborough going with East York? Where do you see it going? Do you have any idea or is it too difficult to tell?

**Mr Faubert:** First of all, it may be biased, but I don't see the amalgamation of firefighters saving any money. I've never seen a report that's proven that. There have been a number of reports in Metropolitan Toronto. The only one was the Ernst and Young study commissioned out of the chairman's office, and the only way they save money is the reduction of around 400 firefighters, the service across Metropolitan Toronto. That's the only savings they could accrue.

There are other opportunities perhaps within a consolidation of services, the centralization of training and things like that, where there may be certain advantages, but I don't think you'll find a penny of savings within the consolidation of fire services across the Metropolitan area.

**Mr Carr:** Do you think it will actually go up? As you know, there's a potential to go up to the highest level. There could actually be an increase. Do you see that happening or is that going to depend on negotiations?

**Mr Faubert:** A lot depends on negotiation. There's a rationalization of service. There are no service standards for firefighting. That's the biggest problem. As you're well aware, you can't say, "This is the level of fire service." In most cases, with all due respect to Mr Kormos, it's determined by the budget of the councils as to the extent of the fire services that are provided by each individual municipality.

We know the service standards in the city of Toronto are higher for a number of reasons, not the least of which is that they have the daytime versus the night-time population. They're a centre of financial, entertainment, and a lot of other reasons, work opportunities within the Metropolitan area and the fact is that they have a different type of urban structure to service. Those are determining factors in the levels of fire services. But in terms of the consolidation of fire services, if you're looking for savings, you're looking in the wrong place.

**The Chair:** Your worship, thanks for taking time from your busy schedule to attend and assist us here today. Thank you, gentlemen.

#### FIRE FIGHTERS ASSOCIATION OF ONTARIO

**The Chair:** Our next presentation is by the Fire Fighters Association of Ontario, Mr David Carruthers.

**Mr Dave Thomson:** Mr Chairman, Mr Carruthers could not be here today. My name is Dave Thomson, first vice-president of the FFAO. This is Ross Jewell, second vice-president.

**The Chair:** Perhaps you could help me, sir. Are you the same as the Ontario Professional Fire Fighters Association?

**Mr Thomson:** No. We represent a majority of the volunteers in the province.

**The Chair:** Okay, good. Thank you.

**Mr Thomson:** First of all, I'd like to take this opportunity to thank you for the privilege of being here today.

Who we are: The Fire Fighters Association Of Ontario is a provincial organization consisting of 300 member fire departments, fire companies, firefighter associations and ladies' auxiliaries actively engaged in fire prevention and fire protection services. This association was formed in 1899, incorporated in 1910 and is made up of members from volunteer and composite departments across the province of Ontario.

The association's objectives: To develop a thorough understanding of firefighting requirements; to promote fire prevention and fire protection practices; to interchange ideas and information concerning firefighting; to cooperate with the office of the fire marshal and other regulatory bodies, both federal and provincial; to propose and support legislation which provides for the advancement and development of the fire service in general; to encourage co-operation between all organizations having the fire service in common; and to promote the preservation of life and property in the province of Ontario.



Membership in the association: When our association was formed, the members' reasons were the same as they are now, almost 100 years later. As mentioned, we are a province-wide association and have representatives on many committees which deal with the changes that are constantly occurring in the fire service.

Overview of the proposed act: It is our view that the proposed legislation contained in this bill is basically a positive step forward for the fire service in Ontario.

With reference to part I, we ask that a definition be included to state the qualifications of a part-time firefighter.

With reference to part II, we feel it is definitely a positive step forward in providing for public life safety in Ontario. We feel that equipment changes during recent years have contributed significantly to a reduction in property and lives lost to fire. However, since we seem to have reached a plateau in this area, it is definitely time to promote fire prevention and public education.

With reference to part IX, since this part specifically exempts volunteer firefighters and since the majority of our members are volunteer firefighters, we'd prefer not to enter into any discussion of this part, as it refers specifically to labour relations.

Training: It is the feeling of this association that the training now being offered to firefighters in the province is second to none. We support the continuation of this training, utilizing both the Ontario Fire College and training curriculum that is used by many departments in the province at this time. Also, there are many regional schools being offered through the Ontario Fire College, which makes the training available to many more of our members.

In conclusion, the fire service review process has been many years in the planning stage, and the result of this process is the legislation which we are discussing today. This piece of legislation will have more impact on the fire service than anything else in the last 40 years. The FFAO is in agreement with the principles of this legislation and can see a positive and proactive result of this bill in the areas of fire prevention, fire suppression and firefighter training standards, to offer the citizens of this province the best protection available.

It's signed by the president, Dave Carruthers.

1100

**Mr Kormos:** I come from down in Niagara, Welland-Thorold, one of those communities which has — would you call it a blended fire service? We have quality professional services with a very strong volunteer component in every municipality in Niagara region and certainly in Welland-Thorold.

I appreciate that you're here on behalf of the FFAO and you're articulating the formal position that the FFAO wants to present here at this committee, but I've got to tell you, and I'm probably not telling any stories out of school, that the guys and gals who are volunteers in Welland and Thorold have sent letter after letter after letter, in this case to me as their MPP, expressing solidarity and support for their professional firefighting brothers and sisters, agreeing with you that the inclusion of fire prevention and fire safety as a mandatory role is very important but indicating very clearly that they do not

support part IX of Bill 84, which deals with issues that my full-time firefighter colleagues strongly oppose.

I've received those messages from darned near every single — because I went through the names — volunteer firefighter from the Port Robinson part of Thorold and from the main part of Thorold, from Welland across the board. I've got them here from Bolton, addressed to Mr Tilson, who is their MPP, from the Herschel township fire department, from Port Stanley volunteer firefighters, Belle Ewart volunteer firefighters, by gosh, from Waltham volunteer firefighters, Timmins volunteer firefighters.

I've got them here saying the very same thing, that these folks do not support part IX, and they're from Stayner, Wasaga Beach volunteer firefighters, from the Sudbury area volunteer firefighters, from Innisfil volunteers, places like Stroud and Barrie, Ontario, from Sudbury area volunteer firefighters, who are saying they do not support part IX of this bill. They're saying they recognize how this attacks the professional firefighters with whom they work and who they understand are a crucial part, the anchor of firefighting services. From Copper Cliff — this is up in the Sudbury area — from Garson, Ontario; from Skead, Ontario; from Gore Bay, Ontario.

I've got the same letters from volunteer firefighters saying the very same thing about part IX of the bill from Trenton, Ontario; of course down in Port Colborne, Ontario, which is just south of where I have a constituency, down along the Lake Erie shore. Again, these are all folks that I know from Sherkston. That's over at Sherkston Beach, midway between Port Colborne and Fort Erie, and from Fort Erie as well. A whole whack more from Port Colborne. I've got them here from Picton, Ontario, the very same letter, volunteer firefighters who are saying no to part IX of this bill, in solidarity and in recognition of how the bill puts their professional sisters and brothers under attack. From LaSalle, Ontario; from Belleville, Ontario; from Trenton again. Just a whole whack of them.

These, I know, are just some of the ones that have been sent in, so I appreciate that you're here articulating, and again no quarrel with, the formal position of the FFAO to this committee, but I get the distinct impression that volunteer firefighters across this province have reviewed the issue, because I know there's a little bit of a history here. There was some —

**Mr Thomson:** There was some history.

**Mr Kormos:** A little bit of history.

**The Chair:** Your time has elapsed, Mr Kormos. I have Mr Leadston.

**Mr Gary L. Leadston (Kitchener-Wilmot):** On a point of order, Mr Chairman: I'd appreciate having an opportunity to look at those documents that Mr Kormos has presented. Perhaps copies could be provided for all members of the committee.

**The Chair:** Mr Kormos, you've referred to certain documents and at least one member of the committee would like to see them.

**Mr Kormos:** I'd prefer that Mr Leadston come over here and sit beside me, and I'll help him leaf through each and every one of them.

**Mr Leadston:** Mr Chairman, I'd prefer not to do that, but I wouldn't mind —

**Mr Kormos:** Too bad, so sad.

**The Chair:** It seems Mr Kormos does not want to provide you with copies.

**Mr Leadston:** Mr Chairman, on a point of order: Mr Kormos has presented these documents. He's named the municipalities and named the various organizations. I assume that's entered in as evidence. I don't see anything in error for him to provide the clerk or to provide me the opportunity to look at those documents.

**Mr Kormos:** Come on and sit beside me and take a look at them.

**Mr Leadston:** I'm not speaking for the other members of the committee. They may wish to see the same documents.

**The Chair:** In that he did not indicate he wished to file the documents with this committee, they are not formally before the committee other than certain portions that he read out on the record and his interpretation of what those letters said. Technically, I have no method of forcing Mr Kormos to present them. Thank you, Mr Kormos.

**Mrs Margaret Marland (Mississauga South):** Just further to the same point, Mr Chair, through you to the clerk: Those portions that he read into the record attributable to certain sources, is he to provide those, since we are into a hearing where we are hearing evidence to an argument?

**Mr Kormos:** Chair, I can simplify this. I'll read the whole letter:

"Dear MPP:

"I'm a volunteer firefighter in the province of Ontario and one of your constituents. All firefighters support" —

**The Chair:** Mr Kormos, you've had your turn. You're just attempting to circumvent the rules again. Please.

**Mr Kormos:** — "I urge the government to amend the bill." That's the full form of the letter.

**The Chair:** I made a ruling that we have no means of introducing — Mr Kormos has refused to present them and that's a voluntary matter. I cannot force him and that's the end of it.

Mr Johnson.

**Mr Ron Johnson (Brantford):** It may surprise you, but I disagree with Mr Kormos on the part-time issue. I thank you for your presentation. I just want to highlight my concerns with the part-time issues, because I have to tell you I agree with a lot of what you said and I understand some of the concerns from the firefighters, but the part-time issue has got me a little baffled here because I don't quite understand the concern. When you have 95% of fire services using in some capacity a volunteer segment with respect to the provision of fire services — and my understanding is your department also uses, if I'm not mistaken, volunteers. You work with them. Am I correct in that?

**Mr Thomson:** Strictly as a volunteer.

**Mr Ron Johnson:** Right. My concern is this: When volunteers are currently trained, and some would argue in some jurisdictions that volunteers do as good a job as professional firefighters do, and full-time, why is it necessary, in your view, to enshrine in legislation qualifications

or training standards for part-timers, when those very qualifications or training standards are not enshrined in legislation for those working volunteer?

**Mr Thomson:** Because, sir, a definition was not included. That's where we felt that part I of the bill was short. The definition was not there for the qualifications of a part-time firefighter, so we felt that in pursuing this bill, in order to do it properly, the definition should be there.

The volunteer firefighters are defined full-time, everybody else is defined except the part-time.

**Mr Ron Johnson:** I understand the definition aspect and defining what a part-time firefighter would be, and I have some sympathy with respect to defining that. But you indicated in your presentation that you would like clearly defined training standards and qualifications also in the legislation. My question is, if that's not there — they define what a volunteer would be —

**Mr Thomson:** That the definition include stating the qualifications of a part-time firefighter. I talked after this regarding the training aspect, which is excellent within the province, but there is no definition to state the qualifications of a part-timer. That's the feeling of the membership.

1110

**Mr Ron Johnson:** With respect to the definition — help me with this — of a volunteer firefighter, does it state in the legislation qualifications associated with being a volunteer firefighter or does it define what a volunteer firefighter is?

**Mr Thomson:** It defines what a volunteer firefighter is.

**Mr Ron Johnson:** But the legislation doesn't state specific qualifications that a volunteer firefighter must have.

**Mr Thomson:** No.

**Mr Ron Johnson:** Why would it then have to state specific qualifications for a part-timer?

**Mr Thomson:** Because I think we're moving out into a new avenue.

Also if I may, sir, our president and board of directors did meet with both unions to explain our feeling towards the legislation.

**Mr Bruce Crozier (Essex South):** Good morning, sir. Just to pursue a little bit further the point that you have presented this morning, the Fire Fighters Association of Ontario's brief, how did your association arrive at that brief and was it then circulated to all the volunteer firefighter departments in Ontario and any response asked for?

**Mr Thomson:** Yes, sir. There were two letters sent out to the membership of our association asking for input, and from there we discussed it at our board of directors and executive meeting. It was taken back to the membership meetings on two occasions and at the last membership meeting we had Jim Lee from the Ontario Professional Fire Fighters who was in and discussed a bit of concern that they had regarding the bill with our executive.

**Mr Crozier:** Was that concern shared by a number of other volunteer departments in the province?



**Mr Thomson:** Yes. That's why our position regarding part IX of the bill. Volunteer firefighters are not even defined, mentioned or anything in that bill, so our feeling and our decision was that we would stay clear of part IX of the bill because it has no effect. Our name is not even mentioned in that part of it.

**Mr Crozier:** It was just decided that since it would be difficult to arrive at a consensus it was best not to make any comment?

**Mr Thomson:** If our name was in part IX, if it had said "volunteer firefighter," by all means we'd have been into, I'm sure, some great discussions with them. If you take a look at those definitions in part IX, the volunteer firefighter is not even mentioned, so that is why we decided to stay clear of that section, because that deals with labour relations between the association and the union.

**Mr Crozier:** Then how do you arrive at the rest of your brief in the other areas of your brief? Do you take what the majority view is? Do you try and get a consensus from everyone? How do you finally get the brief in the order it's in today and the form it's in today and feel confident that it truly represents all the volunteer departments in the province?

**Mr Thomson:** From the input that we got through faxes and telephone calls, what we did was we sat down and drew up a presentation for today and that was basically the feeling regarding part I — I do have copies for everybody — regarding the part-time firefighter and fire public safety and the training.

**Mr Crozier:** Just one last point then: The brief that was presented today in the form that it's in today, did each volunteer fire department in the province of Ontario have a copy of that brief before you came before the committee?

**Mr Thomson:** No, they did not, sir.

**The Chair:** Thank you very much, gentlemen, for your presentation.

ROBERT SALTER  
JOEL FISH

**The Chair:** We're changing the order, I understand from the clerk, so we'll go to Dr Robert Salter and Dr Joel Fish. Welcome, doctors, and thanks for coming today. You have 15 minutes.

**Dr Robert Salter:** I'm going to introduce Dr Fish who's here with me so he may speak first. Dr Fish is the director of the very famous Ross Tilley Burn Centre at the Wellesley Hospital. Dr Fish will speak for approximately five or seven minutes, after which I will do likewise.

**Dr Joel Fish:** Thank you for the opportunity to come and speak and address the committee on Bill 84. I come with two messages. I'm the director of the Ross Tilley Burn Centre, as you've just been told, and I think I bring a view that is unique to Bill 84. I work with the burn patients from the time they've had their accident onwards in time.

The thing I teach people about burns is that burns are forever, so once they've come through the door and they're meeting us, as the burn team, that is forever. We

become involved with the firefighters in varying time points through that episode, the acute phase of the burn. But what they bring in the system — and I guess why I have come to speak against the bill is that there's a system in place that works.

This is my opinion as the director of that centre. What is that opinion based on? It's based on my recent experience over the past year where I travelled to three of the largest burn centres in North America. Harborview Medical Center in Seattle, Washington, has 400 burns per year. San Antonio, Texas, which has, if you will pardon the pun, set the world on fire in so far as burn units go, will see a burn patient any time anywhere who is a federal employee of the United States of America. They see over 400 burns a year. In the state of Massachusetts there is the Shriners burn system, which many people will be aware of. They have done more for childhood burns than just about anywhere.

It is through that experience that I come before you to say that the system we have in Ontario at the moment with the firefighters works. There are three parts to that system, from my point of view.

In terms of education and prevention, what they do in the community, nothing more can be said. It is a system that works. It is not perfect, but it is in place and it is something that we can work with.

Something that is unique is the support for research. In the areas of the United States where there have been bills introduced for some form of privatization, that is the first part of the firefighters' system that falls apart, because an economically based system does not necessarily support the kind of research we get. This is also true for efforts of ongoing education as well as efforts of prevention. It is not a hard and fast rule that these are present or not, but that is the insight I'm trying to bring to you today, that is really my message, that there is a system here that works.

This is where we bridge into the politics and where my understanding falls off exponentially: All of those specific issues — anything which threatens safety either through numbers or through resources, at whatever level — concern me greatly because I would like the system to stay as it is. There's always room for improvement. This is not a perfect system.

I think that to open this gap and to possibly allow for a changing of the status of how the firefighter system works will allow for the possibility of an unregulated system. In the state of Massachusetts the poignant reminder of this is the fact that patients are not triaged; they're not sent directly to regional burn centres. This is also true in the south, especially in areas around Phoenix, with some of these patients crossing the borders to various states to get to the larger burn units. They get delayed treatment and often inadequate treatment, and that in part, not solely, is due to the fact of who is there to pick them up and take them places.

The systems where there has been a denigration of the funding, the state funding or some kind of provincial funding, allow for that because it's economically not feasible to fly them from the northern part of Maine to the city of Austin. I see this as a problem and I hope my submission brings just another viewpoint, another opin-



ion, in terms of why I think this bill probably is not beneficial.

I will end there. I'm safely under my five minutes, I hope. I would briefly introduce Dr Robert Salter, who is professor emeritus at the University of Toronto, and I believe he brings another viewpoint.

1120

**Dr Salter:** I certainly agree with what Dr Fish has just pointed out to you. He looks at this from quite a different point of view than I do. I am a semiretired orthopaedic surgeon at the Hospital for Sick Children — I've been there 42 years — formerly surgeon-in-chief and subsequently professor of orthopaedic surgery and now professor emeritus.

I would like to speak in relation to two different groups of people in this province: first of all, the citizens of Ontario — men, women, children, and I'm particularly concerned about children and always have been through my professional life — and secondly, the firefighters themselves.

First with the citizens: Those of us who are privileged to live in this marvellous province of Ontario may take the firefighters for granted. We consider it a right to have fire protection, but it isn't really a right; it's a great privilege, one we certainly do not wish to lose.

As I understand it, Bill 84 makes changes that could jeopardize the marvellous fire protection we now have. One indication of the reliability of firefighters, one that I admire a great deal, is that to my knowledge no firefighter in Ontario has ever gone on strike. I admire this because I believe that essential persons such as firefighters, police officers and doctors should never, ever go on strike, because such strikes are against the Judeo-Christian ethic of the golden rule, a phenomenon that is true in all the great religions of this world.

Every year many human lives are saved by our firefighters through their first-class training and their raw courage. Having been on the staff of the Hospital for Sick Children these 42 years, I have tried, whenever I'm available and free, not in the operating room but free on the wards, to respond to any fire alarm. I find out from the switchboard where it is — I'm sort of an unofficial fire marshal, in a sense — and I always go directly to that place. The time it takes for the firefighters to arrive — you can set your watch by it — is three minutes at the Hospital for Sick Children, which I think is remarkable in a downtown setting. But I go there first because I know that if there were a fire involving a children's ward, three minutes would be too long to get children out of that area. Fortunately, most of the alarms at the hospital are false alarms, and I'm tremendously impressed by the courtesy of the firefighters; sometimes they're there two or three times a day for false alarms, and they don't complain. They just have a wonderful attitude towards their work. They're good-humoured and dedicated.

My concern is therefore about response time. If you have fewer firefighters and fewer vehicles, the response time is going to be longer. In emergencies, not only fires but also extricating seriously injured individuals from crashed cars, near-drownings, cardiac arrest — as you know, many of the firefighters now are trained in cardio-

pulmonary resuscitation and the use of defibrillators — in those circumstances minutes are important and sometimes even seconds are important. Anything that would prolong the response time of our firefighters to get to where the action is would be deleterious.

I'm sure that if all of you who are on this committee and all the members of Parliament of Ontario could just ride with firefighters for a few nights and see what they do, you would never be in favour of Bill 84.

Second, I'd like to speak about the firefighters. I understand that it's more difficult for a young person to be accepted in the firefighting department than it is to be accepted as a police officer, that the chances of a young person being accepted are even less than those of a potential medical student wanting to go to medical school. This is an indication of the high standard.

I'm also aware that the training of firefighters, as it is now, is very rigorous and vigorous and very demanding. Firefighters, like doctors, keep on learning all their lives and keep on training. I think this is admirable.

You're familiar, I'm sure, with the buddy system that firefighters have, where one looks after the other and the other looks after the one. This is a safety mechanism, and often one will save the life of the other. They are dependent upon one another. If you have fewer firefighters at the scene of a fire or any other emergency, this may suffer.

I'm certainly opposed to the concept of using part-time firefighters as opposed to full-time firefighters. Even though they may be reasonably well trained, it's only part of their life. For a full-time firefighter, it's their entire existence.

Let me draw an analogy: In the emergency department of our hospital, let's say that one of you has a child, your own child, who's been badly injured, with multiple, life-threatening injuries from an automobile accident. You find the ambulance people have taken your child to the Hospital for Sick Children. What would you think if the nurse said: "Tonight we don't have any full-time emergency surgeons on duty, but we have a number of part-time people. They're pretty good, so they'll look after your child"? I think you'd be quite concerned about that.

Our firefighters in Ontario do an outstanding job. I think they deserve our support. Last year I wrote a letter to Premier Harris expressing some of these concerns about the firefighters of Ontario, and after some time I had a response. I'll just read this. It's a very short letter dated January of this year.

"Dear Dr Salter:

"Thank you for your letter regarding firefighters in Ontario. I appreciate that you have taken the time to share your views with me. I apologize for the delay in responding.

"I have received many letters from Ontarians offering advice and support. These comments are valued and will be carefully examined as we continue to work to deliver the changes we pledged to the people of Ontario.

"I appreciate your input and thank you for your interest in public fire safety in Ontario."

Mr Chairman and members of the committee of administration of justice, I have stated my concerns. I implore all of you to administer justice for our heroic



firefighters by defeating Bill 84. I thank you for the opportunity to express my views.

**The Chair:** We have only a minute per caucus.

**Mrs Marland:** A minute isn't enough time. First of all, I would like to thank you, Dr Fish and Dr Salter, for coming before the committee, because you both come with a very special perspective, and we appreciate how busy you are and your taking the time to do that. I want to place on the record our endorsement of what it is you're saying in terms of the standard of service and commitment the firefighters in this province give to the people who live here.

This bill, unless I have missed it — I don't know anywhere in this bill where there is any question about the wonderful work that firefighters do. In terms of fewer firefighters, that isn't in this bill either. The point is that —

**The Chair:** The point is that your minute has elapsed. We're going to have to move on to Mr Crozier.

**Mr Crozier:** Thank you, doctors, and I too appreciate very much the fact that you've taken time to come and express your views. Just one short question, Dr Salter. In the letter you wrote to the Premier — I have no knowledge of what was in it, but I suspect there were some specific suggestions. I listened to the answer you got. Would you consider that as addressing the issues you brought up?

**Dr Salter:** I think it's what we would call in medicine a generic letter.

**Mr Kormos:** This was written by one of a team of staff people and they've got a signature machine that puts the Premier's signature on it.

I thank both of you for coming. We've heard some incredible submissions this morning, yours among them; Ms Stienecker, a community college teacher who related a scenario she was a part of where firefighters intervened — very effective comments. I'm as stubborn as they come, and I've got to tell you this: If for some perverse reason I had found myself in support of, among other things, part IX, even with me being as stubborn as they come, between you and Ms Stienecker I would have felt compelled to review my position. I don't have to because I don't support part IX, but if I did, it would have been, "Doctor, I'll see you at the rallies trying to save the Wellesley." I hope you're out there with the rest of the folks, thousands of folks, who are fighting to save Wellesley Hospital. Thank you kindly.

**The Chair:** Dr Fish and Dr Salter, thank you for coming here today.

1130

#### DOROTHY ROWE

**The Chair:** Our next presentation is Dorothy Rowe. Welcome, We have 15 minutes allotted for your presentation, including questions.

**Ms Dorothy Rowe:** I'm sure it'll be below nine minutes. I'll read my deputation, if that's okay, due to the fact I'm real experienced at putting my foot in my mouth.

My name is Dorothy Rowe. I'm a homeowner and a resident of the city of Etobicoke. I live at 50 Lloyd Manor Road. I'll start my deputation by first telling you a little about myself. I am 36 years old and have spent

the better part of my life standing up and fighting for the things I believe in. The majority of this took place while I lived in the city of York for a period of 13 years. I was involved in a long list of committees and organizations; they stemmed from the likes of CCOPS, PCCOPS, security task force, women's committee, fighting against pay equity, fighting to have changes made to the Young Offenders Act, and many more. Due to these various involvements, I have received the Canada 125 commemorative medal.

I do not come here ignorant of the way things operate, nor do I have any misconceptions that you, the government we elected, may actually be listening to what we have to say. I realize you have probably already made up your minds and this is just a formality so you can say you listened, but I will tell you anyway.

I am here opposed to most of Bill 84, just as I am opposed to much of Bill 103. I will discuss first what I feel is good about Bill 84, since it is the shortest list to discuss. There are only two items that, in my opinion, seem to even be worth mentioning, the first being the improved investigation powers for the fire department for them to be able to enter adjacent properties and use electronic equipment in their investigations; the second being the ability for them to close unsafe buildings. This is all I find positive about Bill 84.

Bill 84, in my opinion, is most definitely a safety issue. I have two daughters; one is epileptic, with seizures that started at the age of three weeks; the other is diabetic and has been since she was two years of age. On many occasions I have had to use the 911 emergency services. Every single time I have used these services, the fire department was always the first to arrive on the scene.

I remember one occasion when my oldest daughter was about three years of age. She had a really bad seizure; she had even turned blue. I called 911. I immediately went outside carrying her in my arms. She was blue, limp and totally unconscious. Within seconds of going out the front door of my house, the fire truck was there. Before the truck even came to a complete stop, a firefighter had jumped off the back of the truck and ran to me, taking my daughter from my arms. They were successful in reviving her. I have always been grateful for the quick response of that fire truck. It seemed like forever before the ambulance had finally gotten around to showing up. There has never been one occasion when I have used the 911 emergency services that the ambulance was the first to arrive.

I don't like to think what might have happened if we had a call-in system like the one that could be implemented if Bill 84 were to be passed as is. This call-in system, without a doubt, will cost many lives. By the time firefighters are informed by beeper or phone, they could already be at the address, helping someone who has had a heart attack or someone whose heart has stopped. In these cases, the first couple of minutes are crucial. I know this, because my father had three heart attacks and one fatal stroke. It also is logical and appropriate that the fire department get to a fire while it is still a small one and can be put out quickly, and not arrive at a large fire just to save the foundation. This most definitely will have an adverse effect on insurance rates, if not our lives.

Excuse me, I'd really like everybody's attention if I can have it.

They are doing something similar in the Toronto hospitals as a cost-cutting measure. They have nurses on call when there are not enough patients in their wards; they are sent home and told to stay close to the phone in case they're needed, and for this they get a small portion of their regular pay. But they do not do this in the emergency departments because they realize they have to be fully staffed with qualified personnel, because with emergencies there is no time to be calling personnel in after the emergency has taken place.

I personally feel it would be totally ludicrous to even consider the changes that Bill 84 would open the door to. We would have nothing to gain but a longer response time, lower standards, less experienced firefighters and higher insurance rates.

It is time we called an end to the penny-pinching. It really is starting to get not just ridiculous but downright dangerous. A couple of weeks ago I had to go into St Joseph's Hospital for a personal medical problem. The person preparing me for the procedure pulled out a face-cloth, put quite a lot of alcohol on the cloth and started to clean my skin with it. I found this really peculiar and asked him why he was using a cloth. He said the hospital wasn't using cotton balls any more in order to cut back to save money. We both agreed it was totally ridiculous, since he had to use triple the amount of alcohol. This is a perfect example of changes being made by people who are so out of touch with reality that they have no idea of how things really work. All they have to do is listen to the people who have experience receiving the services, in this case the firefighters who are on the front line delivering the service.

Another concern of mine is having part-time firefighters. It is my opinion that we would lose the professionalism that we have all counted on, and quite obviously we've taken it for granted. I can only hope that this professionalism is not lost as a result of any stupid decision this government makes in introducing Bill 84.

A part-time person could never have the experience or the training that a full-time firefighter has. The full-time person puts in more hours and therefore is exposed to a larger variety of calls, whether they be fire or medically related. The part-time person could not possibly even compare to the amount of knowledge, professionalism and training that a full-time firefighter would have. Full-time firefighters are more professional and are paid to risk their lives. It is very unlikely that any weekend firefighter would do the same. Part-time and volunteer firefighters may be suited to small towns like Huntsville or Hastings, but they are not suited to a city like Metropolitan Toronto, where the population and the industry are this high. We need only professional, full-time firefighters. To have anything less would lower the standard of service to the taxpayers of Toronto.

As far as privatization is concerned, Bill 84 would open the door for large American companies to be able to come in and take over our local fire departments. In my opinion, this is not even open for negotiation. This could serve no purpose but to deteriorate the fire department. These companies would be concerned with the

bottom line only: Profit. They would get it whichever way they had to. Bill 84 is not in our best interests.

I would like to close by stating a few obvious facts. We have a democracy in this country, and with this we elect people to represent us, the taxpayers. This means that the government, whether it be municipal, provincial or federal, works for us. You cannot ignore what we have to say; if you choose to, you'll be committing political suicide. Bill 84 clearly is not in the best interests of the taxpayers. We put you into power and we can take you out.

**Mr Crozier:** Good morning and thank you for your submission. I have no doubt that you have articulated your views. It would appear as though the part-time firefighter area is one of your greater concerns. Is that correct?

**Ms Rowe:** The three of them, pretty much: the part-time, the volunteer, as well as the concern with privatization.

**Mr Crozier:** I come from a town where we have an excellent volunteer fire department, a town of 15,000 people. You have said, and I'm inclined to agree with you, that where the difference between volunteer and part-time comes in is in the small urban/rural areas.

**Ms Rowe:** There wouldn't be as many calls. The population isn't as high. It's just common sense.

**Mr Crozier:** Okay, good. I want to thank you for your views and your taking the opportunity to come and speak to us.

**Mr Kormos:** Thank you, Ms Rowe. You indicate you're a homeowner, a property taxpayer. Some of us — not everybody, because I suspect the government members would disagree that part of the whole purpose of the downloading, putting all these costs on to municipalities from the province, is so that the province can pay that 30% income tax break. Some of us — again, I don't expect the government members to agree — would suggest that Bill 84, and especially that part IX, is part and parcel of that, because the new rules for arbitration are going to permit arbitrators to come in with artificially low wages for firefighters and so on. If it's a choice between a 30% tax break — and I know I got mine, and it's loose change.

**Ms Rowe:** It's very small.

**Mr Kormos:** Would you forgo the tax break to have quality firefighting services?

**Ms Rowe:** Most definitely. I don't even think that's negotiable. It's something that affects every single citizen in the city and includes the people here on this committee.

**Mr Kormos:** That's all I wanted to ask you. Thank you kindly, Ms Rowe. I appreciate it.

**Ms Rowe:** You're welcome. Anybody else?

**Mr Ron Johnson:** Thank you for your presentation. I find it somewhat ironic that Mr Kormos talks about our tax cut when if he hadn't spent like a drunken soldier the last five years —

**Mr Kormos:** My personal life shouldn't be a subject for discussion.

**Mr Ron Johnson:** — we probably wouldn't have to make some of the tough decisions we have to make.



In the beginning of your presentation, you indicated that there were only two positive things, in your view, with respect to this bill.

**Ms Rowe:** I guess you could count them as three, but yes, there are two.

**Mr Ron Johnson:** Investigative powers and the other one was the ability to close unsafe buildings.

**Ms Rowe:** And enter adjacent properties.

1140

**Mr Ron Johnson:** Right now are you aware that there's absolutely no requirement for municipalities to provide fire protection or public education currently? Are you aware of that?

**Ms Rowe:** No, actually I wasn't.

**Mr Ron Johnson:** In fact, that is the case. This bill addresses that. This bill makes it mandatory for the municipalities —

**Ms Rowe:** For what little it gives, it takes a lot more away, and I'm more concerned with the response time, I'm more concerned with the fact that we have inexperienced firefighters on call, on part-time call and whatever you like. The fact of the matter is, what little you're giving — I'm sorry, I'd rather see the tightening of part IX of this Bill 84, the wording. If you people are not intent on hurting the safety of the people of this city, you should be sitting down, whether it be with the fire department or whether it be with the union, whether it be with a committee of citizens only who have experience with dealing with the 911 services, and working at tightening the wording so that we don't have to be concerned about the safety of the citizens being affected. Whether it be the part-time, whether it be the privatization, if you people are seriously concerned with the services to the city and the citizens themselves, safety should be the number one issue on everybody's agenda. If you're serious about it, sit down with the people and tighten up the wording or get rid of the wording, but you look after these three matters before Bill 84 is put through.

**The Chair:** Thank you, Ms Rowe.

TOM POWELL

**The Chair:** Our next presentation will be made by the Scarborough fire department, Tom Powell. I think it's Fire Chief Tom Powell. Welcome again, Chief.

**Mr Tom Powell:** Thank you, Mr Chairman. I've been appearing as a support member in the past and not been able to speak my piece. I'm looking forward to it.

I want to thank the committee for giving me the opportunity to be here today and address my support and some concerns that I have with Bill 84. My name is Tom Powell. I'm fortunate to serve as the fire chief in the city of Fred — Scarborough, and have done so since 1988. The reason I'm confused on where I work is that I've worked 35 years as a full-time firefighter, and over 20 of those years I've served as a fire chief, two of them in the town of Montreal West in Quebec, 10 years in the city of Fredericton, New Brunswick, and I'm now in my 10th year as the fire chief of the city of Scarborough.

I'm here today to provide my personal opinions and observations. I'm not here to represent the city of Scarborough and neither am I here to represent any association.

The proposed legislation is directed towards fire prevention and public education. I support the legislation with these initiatives as this is a positive move towards improved public safety for all Ontario residents.

Fire prevention services are best provided by personnel with fire prevention and protection experience. The fire service has a full-time and volunteer resource that is currently delivering these services. We have a dedicated, trained work force of volunteer and full-time firefighters who are eager to participate in fire prevention and protection services in Ontario. To consider the concept, espoused by previous presenters, of using persons other than professional firefighters to enforce the fire code is, in my opinion, detrimental to public fire safety. I believe the fire service of Ontario is well equipped with the knowledge and skills to deliver the essential services and to enforce the provisions of the fire code.

The need to define the position of a fire chief in law has been an obvious deficiency that must be rectified. The fire chief is the one individual who is appointed because they have the expertise to provide professional advice on fire-related matters to the municipal council. The inclusion in the legislation of the authority, duties and responsibilities of the fire chief will improve the ability of the fire chief to manage the delivery of fire protection and prevention programs on behalf of a municipal council.

The definition of a fire chief as proposed in Bill 84 recognizes that every municipality that has a fire department should have a fire chief. I am of the view that the terminology used to define the reporting relationship of the fire chief to council should be amended, and that is in part II, 6(3), by deleting the word "ultimately" in the first line. This will provide for a revised clause that would read:

"(3) A fire chief is the person who is responsible to the council of a municipality that appointed him or her for the delivery of fire protection services."

The rationale for this recommendation is that the elected municipal officials should be given advice on public safety directly from the individual whom they appointed because of their expertise and experience in this field of fire protection.

Many municipalities have in place elaborate reporting structures which may include chief administrative officers and commissioners. These structures serve to provide excellent administrative systems. I have no doubt that the fire chief will be required, through the direction of each council, to comply with all of the administrative processes and financial guidelines instituted by the chief administrative officer.

This proposal will not alter those administrative processes. It is designed to assist the elected official in receiving first-hand information from the appointed professional. With the interest of public safety in mind, I would strongly urge the government to incorporate the amended definition and reporting process in the final legislation.

The right of entry for fire and emergencies within the jurisdiction of the fire department appears to be absent from the legislation.

There are rights related to entry for adjacent lands by firefighters, entry on to lands outside of municipalities,

entry where fire has occurred or likely to occur, powers upon entry, entry to adjacent lands and powers to enter when there is an immediate threat to life.

There are, however, no specific entry powers or rights of entry for firefighters when a fire or emergency is occurring. Obviously, this is an oversight and needs to be addressed by providing right of entry to the fire department when they have reason to believe that a fire or an emergency exists. During the fire marshal's presentation, I believe that I heard that the concept was being included in the proposed legislation. However, the current printed version that I have of Bill 84 does not recognize this important aspect of right of entry.

I would like to comment on the labour relations aspect of the proposed legislation, firstly the designation of persons performing managerial functions. I support the proposed legislation as it relates to the designations and the exclusions based on positions performing management responsibilities. However, I believe the designated persons are not sufficient to provide for a non-bargaining-unit employee to be on duty at all times.

I would recommend that the minimum team for any fire department with one or more full-time fire stations should be a fire chief and four on-duty fire officers. This would provide for five exclusions, and this would provide for 24-hour coverage with the appropriate system that one management representative would be on duty at all times.

With the direction being taken towards an amalgamation of the city of Toronto fire department with the five other fire departments, the impact of this legislation on a large urban fire department with over 3,500 employees should be considered.

It is necessary, in my opinion, to consider a sliding-scale formula in addition to the formula found in part IX, 58(5), adding a simple formula to clause (5) as follows: "one person for every 150 additional persons for departments over 400 persons." This would, in my opinion, be a reasonable method of ensuring sufficient management in a major fire department such as the proposed Toronto fire department.

Currently, the way the bill is written, if the six fire departments were to take advantage of the specifics within the bill, there would be as many as 27 positions taken out of the exclusions. With my proposal, with a combined fire department of 3,500 employees, there would be a maximum of 30 positions. It's very close to the proposal that's before you right now.

With regard to privatization of emergency services, I believe this is not the direction the Ontario fire service should be embarking upon. The definition of an employer should be amended to delete the reference to "persons or organizations that employ firefighters."

I agree with the position of the International Association of Fire Chiefs: To delegate emergency services to private industry, whose main purpose is to make a profit, will be detrimental to public safety and will provide a lower level of service at increased cost to the taxpayer. I should point out that there is no conflict with the position from the Ontario Association of Fire Chiefs, who did not address that particular aspect of the proposed legislation.

I have some difficulty with the provincial staff position that this is needed in the legislation to control a prospec-

tive private company from establishing a fire department outside of the Fire Prevention and Protection Act. I believe the powers given to the fire marshal are sufficient to prevent any misuse of the system.

I request that the committee give serious consideration to the removal of this definition of the employer. There may well be areas where the private sector can assist the fire departments in presenting educational type programs etc, but I am not in favour of emergency operations being a profit-making exercise.

In conclusion, I am of the opinion that the proposed legislation will provide through its direction and guidance an effective fire protection and fire prevention service for all of Ontario. I support the concepts and principles within Bill 84, with the exceptions I have outlined today. I urge the committee to amend the proposed legislation in those areas I have outlined and encourage the speedy passage of this much-needed legislation.

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**Mr Kormos:** Thank you, sir. I admire the fact that you've come here and expressed your personal views. There were some other Scarborough representatives here earlier today and theirs were the views of that level of governance in the city. I admire that, I respect that, I think it's a valuable contribution and I hope all of the committee considers the points you've made. Obviously the issue of privatization is one that's certainly of primary concern to me and I appreciate your comments in that regard. Thank you kindly, sir.

**Mr Carr:** Thank you very much for a fine presentation. I wanted to explore the issue of privatization. As you know, there are some people who read the existing legislation as saying that you could privatize fire services now. I agree with a lot of people that the reason it hasn't happened is we've got good service or fine service. That hasn't happened. So if that can happen now, has there been any movement from council or councillors in your area to try to privatize any of the services, because they've had cost pressures, like all municipalities have? Has there been any movement to this point to privatize from Scarborough's standpoint?

**Mr Powell:** A simple answer to that question is no, there has not been. It's questionable whether or not privatization has been available as an option to councils in the past based on the types of collective agreements and the strength of the Fire Departments Act previously. I would really question whether it was there or not, but there has not been any move, certainly not in Scarborough, towards privatization and I hope there won't be in the future.

**Mr Carr:** I don't know, I guess this would have been a good question for the mayor because he was here earlier. If this bill goes through you don't see any privatization happening in your area?

**Mr Powell:** I have concerns with this bill in the area of privatization and I've advanced those concerns today. There are companies out there that are waiting to see what happens; we all know of them. Some of them have been mentioned by members of the committee. I don't like the idea of having operational firefighting being conducted by a profit-making organization.



**Mr Carr:** My last question is a tough one, if I have a little bit of time, and it deals with what I asked the mayor about the amalgamation. As you know, there are some people who say there will be savings. Unfortunately, some of the savings may be in the reduction of fire chiefs. But as you know, the salaries could go either way; they could go to the lowest level or the highest level and so on. What's your best guess of what will happen under the amalgamation with the cost of fire services, which is a big part — 80% is probably salaries and benefits. What do you see happening, or is it just going to be up to negotiations?

**Mr Powell:** I wouldn't suggest for one minute that I would be an expert in that area, but I would suggest that perhaps it'll come in the form of negotiations and clarification once the collective agreement is established for the new proposed city. There will be a lot of discussion that would have to go on in that area, so I can't really give you a specific answer to that question, sorry.

**Mr Ramsay:** I'm sure Mr Carr, the member for Oakville South, meant to say "the proposed amalgamation."

Thank you very much, Mr Powell. I very much appreciate a clarification you made in your submission. It may have been very unfortunate yesterday that the Ontario Association of Fire Chiefs was silent on the issue of privatization and I appreciate in a way you speaking on their behalf when you say, "I point out that there is no conflict with that position," referring to the international one, "from that of the Ontario Association of Fire Chiefs, who did not address the particular aspect of the proposed legislation."

I take it from that you mean that the Ontario Association of Fire Chiefs is not on side of privatization of fire departments either. Is that what you mean by that?

**Mr Powell:** I think what you can take from that, sir, is that the Ontario Association of Fire Chiefs presented the views of their members, which vary from volunteer right up to and including the fire chief of the city of Toronto, and those views are very broad in their scope. Therefore the Ontario Association of Fire Chiefs, when they presented their brief — and I'm not here to speak on their behalf at this time — had to encompass all the views of all those people, and as such was presented in that way.

**Mr Ramsay:** Okay. When you're talking about the exclusion formula, you've come up with a positive idea, which is always very helpful. You were concerned about the way it was going to work with the proposed amalgamation of a 3,500-member department, but then when you cited the two figures, you said the way it is now it would be 27 and with your formula it would be 30. It's only three different. You feel the formula somehow ensures a better ratio?

**Mr Powell:** Given the way it's written at the present time, if there's the proposed amalgamation of the departments, there are 3,500 employees and there would only be five designated positions. But if there are six separate fire departments, each fire department has the opportunity to designate up to five, at least four of them do, and for the other two I think two or three. When you total up those numbers of all six fire departments, should they

choose to take all the designated positions, they have 27 positions. If you take my proposal that's before you and it's an amalgamated fire department, it would be a maximum of 30 positions.

**The Chair:** Thank you, Fire Chief Powell.

#### ELSIE STILES

**The Chair:** Our last presenter this morning is Elsie Stiles. Welcome, Ms Stiles.

**Mrs Elsie Stiles:** Thank you, Mr Chairman. It's warm in here.

**The Chair:** Yes, it is. We have 15 minutes allotted for your presentation. I'd ask you to proceed.

**Mrs Stiles:** Mr Chairman and committee, as a member of the Fire Marshal's Public Fire Safety Council, I am pleased with the recognition to be given to those of us who serve on it. Particularly welcome is the proposed power to be extended to the fire marshal "to monitor and review the fire services provided by the municipalities and to make recommendations respecting those services."

By the way, I'm not a member of any association or business. As a matter of fact, on the council I don't represent anybody but me, but people.

In the past, interpretation of laws and codes have varied between fire departments. This has been confusing to members of the public, who are concerned about fire safety in their own communities.

On the council, my particular area of interest is with the welfare of the thousands of people who live in the many high-rise apartment buildings in Ontario, especially those who cannot go down the stairs when the fire alarms ring. Their limited mobility may be permanent or it may be temporary because of an accident or illness. Anyone who has not lived in a high-rise apartment building, and I won't take a count as to how many have, cannot possibly imagine what it feels like to be jarred awake in the middle of the night by fire alarms ringing loud and long and not to be told why they're ringing.

Fire investigators have told me that in a number of apartment buildings in our province they either do not have a voice communication system or those they do have are not loud enough. My own building is one of the latter. Early on, lacking any other means of communication with our residents, we wanted our fire safety guide to advise them to turn their televisions on to the lobby camera for information that we would give them on cards held up in front of it.

However, even though our fire department had never used our voice communication system, they would not permit us to use this procedure officially. Of course, we did it anyway because we had to have communication with our people. Our fire safety guide has always suffered from their interpretation of the law. The lobby camera is normally used to allow occupants to identify callers on the Enterphone before letting them into the building, but they don't have voice communication with them. However, in future, when we finally do have an adequate voice communication system, that procedure, the camera, can still be used as a backup if the voice communication system ever fails during a fire emergency.



## 1200

Between the fire in North York in January 1995 and the ridiculous situation in our own building, I have to wonder if our firefighters have ever received any training in the use of a voice communication system. I use that "our," not very general, because I don't know. I just know that our fire department has never used it.

I became involved in fire safety 19 years ago — I've been working that hard on it — when my husband and I moved into our condominium apartment on the top floor of an unfinished 20-storey building. The developers never bothered to tell us what we should do when the fire alarms rang, and they rang a lot because there was no security; the building wasn't even finished. It wasn't long before we discovered that we had several occupants who could never leave the building in response to the fire alarms. Two were in wheelchairs and one man had been born with one leg, so he had to use either crutches or a prosthesis.

When we asked a Mississauga firefighter what these people should do under the circumstances, we were told, "They should be in ground-floor apartments or not living in a high-rise building at all." Well, that is no longer an option, considering the number of people with limited mobility who now reside in high-rise buildings, many of which are designed specifically for the elderly and disabled.

Fire alarms and voice communication systems are equally important for the safety of all occupants of high-rise buildings. However, the alarms can only warn the occupants that there may be an emergency. They can't tell them what it is. A voice communication system is the only means whereby all the occupants can be told immediately, all at the same time, why the alarms are ringing and how to react. The Ontario building code required a VCS when our building was erected in the late 1970s; and later, the retrofit law of 1992 specified that it must be loud enough to provide "a clear verbal signal throughout the building capable of communicating instructions to the occupants." We haven't got one in our building yet.

Not many years ago, firefighters had to deal with the safety of people only in single-family dwellings and low-rise buildings. Then, it was logical to get everyone out of the building as quickly as possible, because fires spread rapidly and the buildings could have collapsed. However, the situation is a lot different when fighting fires in high-rise buildings constructed of concrete and steel. Many of them have complete separation of each apartment from hallways and all other apartments and open balconies that make effective safe havens from smoke and gases.

Coroners' inquests of recent tragic fires have shown that rather than telling the occupants to leave the buildings when the fire alarms ring, it just might be safer for them to stay in their apartments whenever they sound, unless, of course, the fire is in their own apartment. However, this challenges a time-honoured principle that has been held ever since firefighting became organized. It is proving to be difficult to change, but it must change. No longer is it realistic to expect people to rush frantically down fire emergency stairways from 20, 30, maybe 40 or even more levels. Even if they are physically capable of

doing so, human nature takes over after people have experienced a few false alarms: They decide to ignore all alarms in future. In high-rise buildings, alarms can be set off by mechanical failures as well as by malicious pranksters. There doesn't necessarily have to be a fire.

In the North York fire in January 1995, at least five conditions contributed to the deaths of six people, and one of those people was pregnant, so you have to say seven people. The occupants had never been given any guidance about how to act when the fire alarms rang, especially if they were unable to evacuate the building for any reason. I happen to know this because my daughter and her husband lived in that building for 18 years and had moved out, with two of our grandchildren, only a year and a half before the fire. They had other criticisms of the management too.

Another thing is that the mandatory automatic closers had not been installed on any of the apartment doors. The mandatory public address system had no backup batteries, so the wiring failed early on in the fire. The incident commander never even tried to give the occupants any information over the existing PA system.

This one is particularly worrisome, something that we people in the public don't realize goes on: Firefighters are trained to go to the floor below the fire floor, attach their hoses to the standpipes on that floor and carry them up the emergency stairway. Not only can they be hampered by people trying to get out of the building, but their hoses prevent exit doors on the fire floor from closing, allowing smoke to enter the stairway and rise to the roof. This procedure needs to be revised.

Fire investigators have also told me that few occupants of high-rise buildings succumb from the fire itself. More often they die from smoke and gas inhalation on the stairs as they are trying to get out of the building.

Early in 1979 — that's how long I've been working on this — when I asked the fire safety officer of the Mississauga fire department to tell me what the occupants of the many other high-rise apartment buildings in our city were advised to do, I was astonished to find out that none of the owners had ever written a fire safety guide for their occupants. What is more, the only printed information he could give me was written for single-family dwellings. Consequently, two hours later we had produced one for my building, the first fire safety guide for people in high-rise buildings in the city of Mississauga.

The first Guidelines for Preparation of Fire Safety Plans for Residential Buildings was issued by the fire marshal's office in April 1983, following the Weber inquiry, which, by the way, I attended quite regularly. Unfortunately, there was no guidance for occupants who could not go down the emergency stairways because of limited mobility. The absolute necessity of an adequate voice communication system in every high-rise apartment building must be addressed. Without this facility, those who cannot go down the stairs must agonize until the alarms stop ringing, which is the only indication that the emergency is finally over. I was in a meeting one time when there was a lady who had to use two canes, and I said, "What do you do when the alarms ring?" She said, "I pray to God there's no fire."



There is another situation that I feel needs to be addressed. When fire codes are written, the wording needs to be clear and complete. For example, the voice communication system in our building is supposed to have been tested for the past 19 years, but no one has ever tried to find out whether it could be heard and understood in every apartment by asking for feedback. Just get the people to tell you whether they heard it. Standing in the hallway is no good. How it should be tested needs to be explained, as well as how often. It says how often it should be tested — once every month and once every year — but it doesn't say how each way.

On the rare occasion when our voice communication system has been used — sometimes in the testing — up to now we have had to open our apartment doors to understand what is being said. Now, picture 200 apartment doors opening in a fire situation — not likely.

Ideally, the voice communication system speakers should be placed inside every apartment — which of course they do now, but look at all the buildings that don't have them — along with the fire alarms, and not like ours, with only two speakers in the hallway to serve 10 apartments.

There is a situation which I describe as the worst-case scenario. It has not yet been addressed, even in the first draft of the guidelines, now in the process of being revised — and you might know I'll be in on that. That is when a fire starts in an apartment and the lone occupant cannot use the stairs. Even a person in a wheelchair can leave the apartment, close the door behind them, pull the nearest fire alarm and go to the landing of the nearest stairway, closing the door behind them. That person must be in a position to tell the firefighters where the fire is located, because the smoke may not yet identify its source. This means that firefighters, of course, must learn to check each stairway on the fire floor.

Also, if one of several occupants in a burning apartment cannot be safely taken to a lower floor, that person must be taken to the landing of the nearest stairway. Then, the others who go down the stairs to the lobby must inform the firefighters of the location of that person, particularly if he or she may have been taken into a neighbour's apartment on the same floor. That goes along with every person who cannot go down stairs. When they move in or after it happens, they should report to the management and be put on a list that tells the fire department as soon as they get there, if there is a fire, if any of those people are in immediate danger and who should be taken out first, because you can't take everybody at once, especially in these special buildings.

One thing I learned about very recently was described as containment. Apparently it is not unusual for a fire in an apartment to burn itself out because of lack of oxygen. If this were explained to occupants of high-rise apartment buildings, they would realize the importance of the automatic door closer. It is too easy to loosen one of those for convenience, since the door doesn't stay open easily, or not to readjust one that has become ineffective.

My presentation today is based on my own experience and knowledge. In spite of the existence of many high-rise apartment buildings in other countries, it is surprising how little information seems to be available to help us

learn about their safety procedures and how people who live in their high-rise building are treated. Considering the efficiency of modern communication, we should be able to learn from one another. And considering the efficiency of modern communication, we should be able to have a voice communication system in my own building that I can hear without having to open the door.

**The Chair:** I thank you very much, Mrs Stiles, for assisting the committee in its deliberations here today. Our time is up and we will be proceeding.

I remind all committee members that we have no less than 16 presentations this afternoon. We start at 1 o'clock. I predict I will see a quorum at 1 o'clock. Please do not be rude and keep our guests waiting.

*The committee recessed from 1214 to 1302.*

#### BOROUGH OF EAST YORK

**The Chair:** I call the meeting to order. Our first presentation will be by the city of East York; His Worship Michael Prue will be making that presentation. Your Worship, welcome to the committee.

**Mr Michael Prue:** Thank you very much, and it is the borough of East York, Canada's only borough.

**The Chair:** We have "the city." Sorry, you're quite right.

**Mr Prue:** Thank you very much for the opportunity to address the committee. I'd like to preface my remarks by saying that I support most of the major provisions of the bill, and I'm sure that most of the people who have been before you are concentrating on several areas. I would like to particularly commend the support given to the fire marshal, the areas around education and fire prevention. I think they're very sorely needed and they are appropriate.

I am here with concern for one specific aspect of the bill, and I think you might have had speakers before me but I would like to put it in a very strong municipal perspective, and that is the whole issue of privatization of fire services. I received a very nice letter on April 2 from Robert Runciman commenting on some of the statements I had made about privatization at an earlier news conference and I'd like to quote a couple of sentences from his letter to me because I think this is the nub of the whole thing. He writes: "I want to stress to you that Bill 84 does not promote privatization. The bill does not encourage or discourage privatization of Ontario fire services." I think that's the whole thing, it does not discourage them, and I think it should.

What our fire services do, and I know you all know this, is not just put out fires, although that's a key and important ingredient. They also supply the services for medical emergencies, for emergency planning for most of the municipalities, and are very key and pivotal around roles of education and fire prevention. This is, in our opinion, not a role for anyone except those who are the most professional, the most accountable and the best trained. Privatization has a place within the public service but it has no place, I submit to you, in fire protection. It has no place where people's lives are at risk; it has no purpose where split-second timing means everything.



The municipal experience in Metropolitan Toronto is a very favourable one around fire prevention and around firefighters in general. Everywhere in Metropolitan Toronto, the borough of East York and the other five municipalities, we can and do provide four-minute service; that is, from the time the fire alarms go until the fire trucks arrive on the scene it's four minutes or less. That is in about 90% or 95% of all cases. This is very, very crucial not only because of how fast fires spread, but it is also very crucial in terms of emergency services, lifesaving services where people stop breathing, suffer heart attacks. It's essential that someone get there within four minutes or the people will be dead.

We also have in the borough of East York, I'm proud to say, the lowest loss from fire both in terms of life and in terms of property damage in all of Metropolitan Toronto. We have coordinated our efforts, as do all the municipalities, across municipal boundaries.

We have the expertise not only to put out fires but to know intimately the community that the firefighters serve, whether that be where the roads are — and I don't have to speak to the Legislature of how many roads and how many addresses there are in Metropolitan Toronto; I think you've discovered that over the last few days — but certainly our firefighters know all of them within the borough of East York and indeed all of those in the surrounding municipalities within a one-mile radius of our borders. They need to know them and they need to know exactly where they are. There's no chance to get a wrong street. You cannot take that. By the time you find the right street it will be too late.

They know the emergency planning and they know everything intimately about every building, about every street, about every residence, about every business in the borough of East York. This is an expertise that I believe would be sacrificed if we went out to the lowest bidder.

To allow or encourage privatization I believe would be disastrous, and yet to even have it in the legislation will be a carrot dangling for cash-strapped municipalities, not necessarily our own, but there are lots of them. There are 850 municipalities in Ontario, many of which are facing difficult economic times. As governments cut back, at the federal level to the provinces and the provinces to the regional or municipal levels, there is less and less money and people are desperate. Municipalities are desperate, politicians are desperate, trying to find ways to do with less or to do it cheaper. I am very fearful that they will choose the option of privatizing an essential service, a professional service that cannot afford one bit less than the maximum which is being given today.

I'd like to give you some experience, not related to fire, but what has happened in East York around privatization. Privatization is always used, and I have never heard for any other reason except to save money. If there's another one, please let me know what it is. In East York, we've experimented with privatization in three major areas in the last five years. The first one was for garbage pickup and half of the borough is done privately and half of it is done publicly. We have sent out to tender our entire parking enforcement program, our parking authority. Last but not least, we have put out to tender our monthly payment plan; that is, people can pay

their taxes through a monthly payment plan but they pay them to a private company.

Our experience has not been a good one. We did it to save money, and in fact in the first and initial months we did save some money. But the experience taught us another thing: that in the first month, with garbage for example, whereas we would receive one or two complaints a year about garbage pickup with our own workers, we received 300 in the first month after we privatized the garbage service to half the borough. At the end of two years we're not getting as many complaints, but they still average five to six per month and we still average less than one per month for our own employees on that half of the borough.

#### 1310

In terms of initial cost savings, yes, it was much cheaper to privatize all of these three services, but I have to tell you that today they are all more expensive than if we had left them in the public domain. Garbage is being picked up by our own employees at \$1 less a tonne than we are paying for the contracted service from a private company. Our parking is costing us about \$25,000 more a year than we could do it ourselves, and the monthly payment plan is costing us in the neighbourhood of \$18,000 a year more than we could do it ourselves. You say, "Well, that's fine; it's only money," but that was the initial reason we got into it.

But with the myriad of other problems and the complaints we get, I'm worried about the fire department. We get complaints on all these problems, number one, because the contracted employees or companies are not familiar with East York. If the fire service is not familiar with our municipality, then we are going to see really disastrous consequences, similar to what happened with the ambulance services of Metropolitan Toronto where they couldn't find a street in Scarborough, it took them something like 28 minutes, and a man who had suffered a heart attack died. That's still pending before the courts. If you don't know the community, if you're contracted out, if your head office is somewhere else, it's very difficult to expect the employees to be there on time.

Poor equipment: The equipment that is being used by the facilities with which we have contracted out I would think is not as good as the equipment that is in the public domain, certainly not as good as the equipment that we use in the borough of East York. If that were to happen to the fire service, you're going to see old and antiquated equipment, equipment that can break down. In order to save money, they're not going to go with the state-of-the-art facilities, the state-of-the-art equipment that we have today. Certainly we pride ourselves on being on a regional net with all of the municipalities except for Toronto, using the same types of equipment that are usable between municipalities.

Training: I'm very nervous about the amount of training given. It takes thousands and thousands of hours of training, years in fact, for a person to go from being a trainee in the fire department in the borough of East York to become a first-class firefighter. I'm not sure that same rigorous standard is going to be applied to private concerns that are attempting to gain the market at the cheapest possible cost.



Last but not least is the commitment. Firefighters are committed to the borough of East York. They work in the borough of East York; many of them live in the borough of East York. One need only go to community picnics, to cultural or social events in and around our municipality. You will see the firefighters there. They are known by the people, they are trusted by the people and they deliver the very best of service to the people they serve. I am very, very worried that if this privatization is allowed or encouraged, or is even there on the books, that if it was taken up this commitment would be lost.

All of these things have been lost in our efforts to privatize other services, but the consequences of privatizing your fire service has to be the most horrendous. It has to be the most difficult to deal with and it should be one that, in my opinion, has to be avoided at all cost.

What if communities privatize? What if the new firefighters get lost? What if their equipment breaks down, as it does in many American institutions? What if the training is not up to standard? What if the commitment to the community is not there? It's one thing to privatize your garbage, it's another thing to privatize your fire department, and I would ask you to please remove this one section. The rest of it I'll leave to other speakers; I really don't have too many problems. But we cannot afford a fire department which is not in the public domain so I'm urging you to delete this section. I'm available, if there's time, for any other questions you might have.

**Mr Ramsay:** Thank you, Mayor Prue, for your presentation today. I guess I'd have to say "thank God" that when you did experiment with privatization you started with the monthly payment plan and parking and not a public safety and security service such as fire. I think you make the point very well that, while municipal politicians are obviously tempted, from pressures from taxpayers and the downloading from the provincial government, to find the very best way to deliver services to people, this is not the route.

I agree with you that, from the quote from Mr Runciman's letter saying that he is not encouraging privatization of fire departments, then I think we should have some sort of amendment in this act that would prevent municipalities from privatizing their fire service. I think that's the way to go and that's the sort of amendment I would bring forward. Thank you for that suggestion.

**Mr Prue:** I don't know that that was much of a question, but thank you.

**The Chair:** Sometimes they are rhetorical questions.

**Mr Kormos:** Mine is likely to be similar, sir. I appreciate your comments about the experience with privatization because there's going to be a veritable orgy of privatization going on in this province. I'm convinced of it.

Firefighters are targeted. We've got companies here now that are out there pounding the pavement. The door has been opened for them to buy up public water and sewage systems, British style. The experience in Britain, as you know, has been a disaster. I suppose it'll be compounded when, if privatized, for-profit corporate firefighters arrive at a fire scene and then try to tap into a hydrant that's owned by a private water supply company which trickles to a dry run. I guess it'll just com-

pound the crisis that privatization of public services is going to create.

I appreciate your comments. I appreciate your frankness. I suppose it's not an easy thing to admit that the experiments at cost cutting in your community have not been as fruitful as it was argued they would be. I hope you restore those things to the public sector as soon as possible. Thank you kindly.

**Mr Prue:** We want that. The question is whether we would restore them. We are attempting to do so. Unfortunately we are tied into contracts, and as soon as we can get out of those contracts and bring it back into the public domain, we can save the taxpayers a lot of money.

**Mr Ron Johnson:** Thank you, your worship, for your presentation. You indicated you had some concerns with the section of the bill that would allow for privatization. To be honest with you, I'm not a supporter of the privatization of fire services. I think that would be a mistake, but I have to ask — some would argue that the power for municipalities to do that now already exists — what particular section of the bill are you referring to that would give power to municipalities to privatize?

**Mr Prue:** You're going to have to bear with me to find the exact section. I have a lot of notes here and I didn't include that, if you can just give me a second.

**Mr Kormos:** You know what section that is, Mr Johnson. It's the redefinition of "employer."

**Mr Ron Johnson:** No, that's —

**Mr Kormos:** Mayor Prue knows that too.

**Mr Prue:** I'm looking for the number.

**Mr Ron Johnson:** My point really is that the act does not really change much with respect to the privatization initiatives that municipalities already have —

**Mr Prue:** No. I think —

**Mr Ron Johnson:** — as much as I agree with you.

**Mr Prue:** I preface my remark from a comment I received from Mr Runciman. He said, "The bill does not encourage or discourage," and my remarks are that the bill should discourage. That's what I'm saying. The bill should not open that up because municipalities, as the cash crunch comes, will take every effort to try to save money because they're going to have to. This is not an area where I think they should.

If they want to do it in garbage, if they want to do it in other things that are not life-threatening or life-supporting, then maybe that's where it has to be done. But to leave this open for fire or for emergency services, I think that's the wrong place for it to be included.

**Mr Ron Johnson:** I agree with you.

**The Chair:** Thank you, your worship, for taking time from your schedule to come before us.

**Mr Prue:** Delighted. Thank you for starting on time. That was amazing.

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#### CITY OF TORONTO

**The Chair:** Our next presentation will be the city of Toronto, Her Worship Barbara Hall, accompanied by fire chief Peter Ferguson, I believe. Welcome.

**Ms Barbara Hall:** Thank you very much. You all look very alert. It's a real pleasure to have this opportunity to



speak with you all today. I'm pleased that our chief, who addressed you yesterday, Peter Ferguson, is with me, and I know that Mark Fitzsimmons, the president of the Toronto Fire Fighters' Association, will be addressing you later today.

I'm deeply concerned about the impact of Bill 84 on the future of the city of Toronto. It is the economic engine of the province and the most livable big city in North America, and we have a lot worth protecting. I believe that Bill 84 will make those things harder to protect.

We've invested carefully in making Toronto a healthy city. We've put a great deal of effort into maintaining good parks, quality health service and top-notch emergency services to protect the wellbeing of the citizens of Toronto.

Visitors express surprise at the high quality of life and the vibrancy of our city. Quality of life is an end in itself, but it's also a means to economic growth. We've found that a healthy city grows faster. That's why we make it a priority to keep our city safe and healthy.

As mayor of the city of Toronto, I am proud of our fire service. Toronto has one of the best fire departments in the country. Citizens want a fire service they can rely on. It affects their insurance rates, their peace of mind; it affects the kinds of businesses, workers and leaders you attract to a community. Toronto wants to maintain that high standard. We believe Bill 84 threatens that.

There are three areas where the municipality and I believe the public have particularly strong concerns. First, the issue of part-time firefighters: Bill 84 provides for that, but I believe part-time firefighters won't get the same kind of experience as full-time firefighters. Effective firefighting depends on extensive pre-fire planning and ongoing training exercises. It's hard to see how someone on part-time duties can participate as fully as a full-time firefighter. The public has responded with alarm to this proposal. They deserve the best fire protection they can get and have doubts about the ability of part-time firefighters to do the job.

Bill 84 specifically accommodates privatization, and in reference to the question that the Vice-Chair just put to the definition section of "employer," I know the government has assured us that privatizing fire departments has always been an option. As a municipal politician I have a particular perspective on that claim. Many things can be read into the Municipal Act.

In my years on council there have been many issues where one group of lawyers has told us that a proposed action contravenes the act at the same time that another group of lawyers has told us that the same proposal is permitted. There is a lot of room for interpretation, and that lack of clarity often makes a significant difference in how municipalities choose to behave. By specifically accommodating privatization for the first time, I believe you're greatly increasing the probability that municipalities will choose this option.

The question of call-backs: Firefighting in densely populated urban areas depends heavily on response time. Getting there fast makes all the difference. We're proud of the response times we've developed in Toronto: an average of four minutes. The reason we have that is

because we have firefighters ready to roll, on duty day and night. Changing the call-back system enables municipalities to abandon that policy.

The new call-back system abandons the commitment to fully staffed firehalls. Bill 84 removes restrictions on the use of off-duty firefighters. That change will encourage some municipalities to employ skeleton crews in the firehalls and exploit the new call-back system to call in off-duty firefighters after an emergency occurs. You can't have a four-minute response time with that kind of system. We will face more damage, more injuries and a reduced sense of security.

That's why on February 24, 1997, Toronto city council passed a motion affirming our support for the firefighters of the city of Toronto and expressing concern with respect to Bill 84. Council asked that the provincial government be informed that we don't support any legislation that would lower standards or disrupt the firefighting system that Toronto relies on.

Council calls on the Solicitor General and the Legislative Assembly to amend Bill 84 to eliminate any aspects that would undermine fire safety. I'm here again today to urge you to follow that advice and amend the bill.

I'm aware that the government has said it's simply providing options to municipalities. The government has claimed repeatedly that this bill allows municipalities to choose the kind of firefighting system they need. It's all well and good for the province to assure the public that municipalities will make the right choices, but the province hasn't left us a real choice. The costs that have been downloaded on to municipalities strain our budgets to the breaking point. The unfunded mandates, like the mandatory fire education programs in this bill, add to that strain.

As the government nibbles away at the standards for fire services, they dangle a dangerous temptation in front of cash-strapped municipalities. "Cut here," the legislation implicitly suggests. "We've made it easy."

With the changes the province has proposed through amalgamation, it's hard to anticipate the shape of municipal government in Toronto. While I and many others may trust in the wisdom of future councils to do what is right for the city, trust is a poor substitute for certainty. Communities like certainty. Businesses depend upon it. The province has an opportunity to create certainty by setting clear standards for fire suppression, but that's not here in Bill 84.

Instead of setting clear standards that inspire public confidence, the province is weakening some of the few standards in place. By opening the door to privatization, part-time firefighters and unlimited call-backs, the province has backed away from any sense of fire safety standards.

I know the Solicitor General has indicated that the government will intervene in those circumstances where the fire suppression system is inadequate, but I can't help but wonder why the province isn't doing what it so obviously should do: set clear standards.

The government has promised that the fire marshal will step in if too many cuts are made. But how will this happen? Is the fire marshal, with his modest resources, really going to scrutinize every fire budget, staffing



model and training program? What standards will he or she set? How bad can it get before he or she steps in?

Instead of protecting fire safety standards on a reactive basis, why won't the government take a proactive approach, set clear standards, fund municipalities appropriately for those standards and put the public's mind at ease?

If that's how I feel, in a large municipality with strong fire services, I can only imagine the sense of uncertainty that must be felt by a business owner or a parent in an unincorporated community that has no fire services at all.

As a mayor and a citizen, I would sleep a lot better at night knowing that Ontario had set clear standards for firefighting and made a commitment to fire safety.

If Bill 84 is to become the first-rate fire safety legislation it professes to be, significant amendments will have to be made. Don't permit privatization, don't permit part-time firefighters and maintain some limits on call-backs. At a minimum, the province has an obligation to maintain the fire safety standards that are in place today. I ask you, on behalf of the people of Toronto, to amend this bill accordingly.

1330

**The Chair:** Thank you, your worship. Each caucus has one minute.

**Mr Kormos:** That doesn't give us a whole lot of time. I appreciate your comments, though, about how you as a mayor have received, over the course of time, conflicting opinions, for instance, about the Municipal Act. When you take a look at section 2 of this bill, you note that the requirement for a municipality is mandatory that it establish "public education with respect to fire safety and certain components of fire prevention," and that of course has been lauded by everybody involved, and then it appears to make other fire protection services, to wit fire suppression, by virtue of it not being in that subparagraph, less than mandatory.

Then the government will say, "Yes, but the fire marshal has the power to review the adequacy of fire protection services in general." But when you take a look at the final say-so, it's by order in council from the provincial government. If we've got a provincial government that doesn't give a tinker's dam about the quality of, in this instance, fire protection services, and far be it from me to speak for you —

**The Chair:** Thank you, Mr Kormos. Your one minute is up. We'll move to Ms Marland.

**Ms Hall:** I think when the need is clear —

**The Chair:** I'm sorry, your worship. Because of the strictures, it is impossible, and I'm trying to move along. I apologize for you not having the opportunity to answer it.

**Mr Kormos:** I was sure I left time for the mayor.

**The Chair:** I am not here to make discretionary choices, Mr Kormos, as you full well know.

**Mrs Marland:** I'd like to speak to you not only as an MPP but as a former city councillor in Mississauga, that great city, for seven years. I'm a little biased because I happen to think that Mississauga has the best firefighting department in Ontario.

**Ms Hall:** We're lucky that a lot of cities have really good ones.

**Mrs Marland:** You're talking about local options to municipalities. As mayor, I know you would only make the best choices in those options on behalf of your residents, and so would your councillors. You wouldn't choose, in my opinion, based on my experience, anything that would put your people at risk. You wouldn't do it now and you won't do it after Bill 84. With the fact that you will have enhanced choices after the passage of this bill, I need to ask you, would your choices be any different in terms of priorities of human safety and security?

**The Chair:** I'm sorry, Ms Marland; there is not the time for the answer to be given.

**Mr Ramsay:** Thank you for your presentation, Mayor Hall, and I will give you an opportunity to answer my question. It's very simple. I appreciated your pointing out something that not many people have. On page 7 you're referring to some of the downloading of this government, but specifically in this bill, the unfunded mandate on the education programs. I was just going to ask you if you thought this was a commitment being broken by Mike Harris, the Premier, as he promised not to do that to municipalities if he got elected.

**Ms Hall:** We're certainly concerned about what we see as downloading in a number of areas. That's why I'm so concerned about the kinds of choices being left open to people. There are some things that are so central that they need to be guaranteed, need to be given some certainty, and I would agree that they also need to be given funding adequate to maintain them. We need the certainty in the legislation and we need the funding to allow those things to be delivered.

**The Chair:** Thank you, your worship, for your presentation here today.

JACKIE CUTMORE

**The Chair:** Our next presentation is from Jackie Cutmore.

**Mrs Jackie Cutmore:** Can I wait till Gary Carr, my MPP, comes back?

**The Chair:** No. Unfortunately, I don't know where Gary is, but that is an impossibility.

**Interjection:** I'll go get him.

**Mrs Cutmore:** Someone's going to get him. I told him he'd better get back.

**Interjection.**

**Mr Kormos:** She can if I ask the Chair to call for a quorum.

**Mrs Cutmore:** Would you, please? That would be great.

**Mr Kormos:** Sure.

**The Chair:** Is that a quorum call?

**Mr Kormos:** You bet your boots it is.

**The Chair:** We'll recess for five minutes.

*The committee recessed from 1336 to 1340.*

**The Chair:** I call the meeting back to order. Mrs Jackie Cutmore will be making a presentation and has 15 minutes. Please proceed.

**Mrs Cutmore:** I'd like to start my comments by saying that it is a privilege and an honour to follow the mayor of Toronto, Barbara Hall. I am in the position of

wishing that the mayor of Oakville and the chief of Oakville were sitting here in her stead saying those remarks, which I know they won't. However, I would gladly add those comments to my remarks because I would back each and every one of them.

Mr Chairman, members of the committee, ladies and gentlemen, and especially you, Gary Carr, my MPP in Oakville, I want to thank you for the opportunity to speak today. I truly hope I can emphasize some areas of concern, enough to raise reasonable doubt. Although I do not ask you to act like a jury, I do ask you to carefully take my comments into consideration.

The Honourable Robert W. Runciman recently stated that the proposed Fire Protection and Prevention Act is the strongest legislation of its kind in Canada. He further states that for the first time in 50 years the issues surrounding fire services are finally being dealt with, and he finalized his comment by saying that this demonstrated this government's commitment to safer Ontario communities.

Undoubtedly, there are some excellent recommendations in this legislation, but I can tell you that I am really upset that it took the government 50 years to enact changes that were related to safety. I give credit to the current government for finally doing this, but I resent the implication that this legislation strives to improve safety when in fact this is not the case. I also want to mention here that this government had an opportunity to do this much earlier than the 50-year time span. That, ladies and gentlemen, is why I stand here before you today.

I am a former councillor of the town of Oakville, I am the mother of a firefighter and, last but not least and most of all, I have been a taxpayer and resident of Oakville since 1966, and that's in Ontario. There is only one issue I want to talk to you about today. It is safety: safety for the public, safety for the firefighters and safety for the community.

I had been following the media and discussions on this legislation but it wasn't until I heard Chief Peter Ferguson's presentation to Toronto city council that I acted. Chief Ferguson and the president of the Toronto Fire Fighters' Association received the unanimous support of Mayor Barbara Hall and a motion was passed declaring the city's opposition to any lowering of standards for firefighters.

That very morning, on February 18, I called Harry Henderson from the town of Oakville and asked for all pertinent information. I also asked if this had been discussed at town council as yet, and it had not. Peter Wagland called and had a package available for me to pick up. I also called Gary Carr's office asking for anything and everything to do about this legislation that would affect any vote he would make. I also asked the firefighters for information and received it.

There are many areas where I feel we can tighten controls and reduce spending, but there are no areas that I would agree to when it comes to safety.

The last time I stood before Oakville town council with the same concern regarding safety was in the mid-1970s when there was a proposal to remove 17 crossing guards in front of schools and replace them with crosswalks. I cited as my main issue that crosswalks gave a

false sense of security. On the very first day a crosswalk was placed in the city of Toronto, a person was killed. I am happy to tell you that the council of the day did not wish to compromise the safety of the students on a recommendation before them and the motion was defeated.

I would like to address the specific areas I feel are of concern. I first of all want to say that I am upset about how a number of statements in the backgrounders to the legislation are worded. It is like Oakville or no other municipality ever took fire prevention and fire protection seriously.

I am concerned that over 30 coroners' juries have called for better integration of services and more public education to increase fire safety, but I am really concerned about why it wasn't after three or four or seven or eight. Why did we wait for 30?

We all know that putting out fires is the most visible part of a fire department's responsibilities, and are there any among you who do not know that prevention is the most effective way of reducing loss of life and property?

I am concerned about the promotion of part-time and/or volunteer firefighters. A municipality in the GTA which utilizes volunteer firefighters cites in an 18-month period over 70 incidents where volunteers did not respond when notified or were in excess of 10 minutes arriving at the station. I am also concerned when the president of the volunteer Fire Fighters Association of Ontario sent a letter to his members urging support of Bill 84 with the exception of part IX, which talks about labour relations and firefighter employment.

There are concerns on other issues such as the speed of response times and the effectiveness of firefighters' teamwork.

This legislation has the ability to:

Allow municipalities to provide fewer firefighters for emergencies: An Ohio State University study showed that understaffing the firefighting team leads to a 24% increase in fires that spread and a 46% increase in firefighter injuries. The Ontario fire marshal has concluded that a three-person crew has very limited firefighting capabilities. Among the tasks a three-person crew can't handle are attacking a fire inside a house, conducting rescue operations inside a house and establishing a water supply from a hydrant in a reasonable time.

I'll move on in case I don't have enough time.

Jeopardize teamwork in an emergency: Understaffing fire halls and emergency vehicles means that firefighters are scrambling in at different times. It's hard to coordinate a team when the number of players keeps changing. Adding part-timers with less training and experience makes it harder to function as a team because you can't be sure how the guy next to you is going to react and if it's the way you expect. What would you think of a pro football team that put only six players on the field and then added amateur athletes occasionally as the game went on? How many games do you think they would win?

Speed and response time: After 12 minutes, the chance of a successful rescue in a fire falls to 46%. After 15 minutes, the odds are only 5.5%. Coroners' juries routinely identify response time as a key factor in saving lives.



Privatization of all or part of the fire service: A private company took over 20 minutes to arrive at the scene of a house fire. The house burned to the ground. A private company then billed the homeowner for \$13,000 for equipment and services that the company itself had no record of sending to the scene. When confronted with the fact, as a private company, Mr Edwards said: "I would hope that a private company is not doing that. But I can't say that it didn't happen inadvertently." This was quoted in the *Phoenix Gazette* in August 1987. I've given another couple of samples there for you to read as well.

Automatic aid is also one of the concerns I have. This is already done in most municipalities, and there's usually a mutual reciprocal arrangement, but there is a fear and caution advised about staffing.

These are just a few of my concerns. In the information I received from the firefighters' association they used the statement, "Speed, experience and teamwork make the difference." I have attached their comments as well as a very thought-provoking picture. You'll notice in your package that I have shown this picture that they have on their campaign literature. I might add that when I look at this picture I think of my grandchildren and my son, the firefighter. I even think about Oklahoma. No, I don't think about statistics and I don't think about the report; I think about the picture that was in the media of the firefighter holding that child, limp and actually quite dead; a really sad situation.

I realize that I don't have the time to make a proper presentation, but I would also like to say this is not legislation that recognizes the differences in communities, as it would have you believe. Oakville is a unique municipality with a small-town atmosphere and a city population. We are flanked by a refinery on the east and a refinery on the west. There are large industrial companies like Ford in the east, as well as St Lawrence Cement.

1350

This is not legislation that takes the aging population into consideration. We, like many municipalities, have addressed this issue and have made provision for an aging population. Both the region of Halton and the Halton District Health Council have done extensive studies in this area.

This is not legislation that takes high-density town house developments into consideration. There is a need to recognize the higher or greater risk in accommodating this form of housing.

This is not legislation that recognizes that a catastrophe on the QEW paralyzes Oakville totally, for citizens, passersby and especially fire protection. This is of paramount concern.

This is not legislation that takes into consideration the value of morale as a positive means to productivity.

I've added also in here some excellent pages of information that I have just photocopied from the Ontario Professional Fire Fighters Association. Without reading it, I'll just pass it on.

Finally, this is not legislation that reduces the risk for citizens in a fire, but rather compromises the safety of me and my family, who I am proud to say are all homeowners in Oakville.

Finally, I would ask you to think of the people you serve. If there is any reasonable doubt about the points I have raised, you must amend your presentation for the hearings and withdraw your support until such issues are addressed and/or hopefully deleted if they aren't.

I respectfully ask this committee to put forward a motion that would not allow for the lowering of standards for firefighting or disrupt the firefighting service for this town — I'm sorry; as you can see, I made this presentation to my town council last night, and I'd ask you to refer to your own committee and this presentation — and also to consider requesting amendments that would eliminate any aspect of the bill that could in the town of Oakville.

I'd like to just briefly talk about the town of Oakville council meeting that occurred last night. It's really important for all of you sitting around this table to note that if I, as a citizen who had only been involved since February 18, after following a little bit of media here and there and some discussion that I had been made aware of, attended a council meeting that had actually been deferred to last night from the week before — and I can tell you that if there had been more time, I strongly believe the town of Oakville would have defeated its support for this Bill 84.

I feel strongly that there were comments related to Chief Ferguson's positive outlook in his recommendation to the city of Toronto wondering why two chiefs have such differing opinions of what is called safety of their municipalities and what their present status is. One councillor — and I guess being a former councillor and you being politicians as well might understand — said: "I can easily go along with Peter Ferguson's remarks. However, there's been a lot of time spent on this discussion and I'll vote for the motion on the floor." So I think we would have had that one if we'd had a little more time.

I would close by saying, Mr Runciman, that the right thing done wrong is wrong. Thank you.

**The Chair:** Thank you, Mrs Cutmore. Your time has elapsed. Thank you very much for your presentation.

**Mrs Cutmore:** I appreciate the opportunity.

BILL WRETHAM

**The Chair:** Our next presentation will be made by Bill Wretham. Welcome, Mr Wretham.

**Mr Bill Wretham:** I am the former fire chief of the city of Scarborough. I served the municipality as a firefighter in excess of 41 years, starting as a volunteer in 1943, then as a full-time firefighter in 1950, and rising through the ranks to become the deputy chief in 1968 for eight years and the fire chief in 1976, a position held for 11 years and five months until my retirement in 1988. I was also an executive member of the Ontario Association of Fire Chiefs from 1975 to 1983, the last two years as their president.

I appreciate the opportunity to appear before this committee. I guess I'm in the enviable position of not representing an association. I'm not representing a municipality, I'm not representing a high-pressure lobby group, nor do I have boxes of petitions or a threatening

brief, but I do have years of experience trying to manage a fire department under the still existing legislation, the Fire Departments Act.

I appreciate that Bill 84 encompasses many facets of the fire legislation for this province, but I would like to especially address part IX, section 58 of the bill, dealing with managers, which is intended to provide a meaningful degree of management within the fire department.

The present legislation, providing for only the chief and the deputy to be the sole management segment of today's multifaceted municipal fire department, is absolutely ludicrous and can only lead to turmoil or else to a degree of management as permitted by the local firefighters' association.

Prior to my leaving the fire service as the fire chief for the city of Scarborough, I'm confident that no other fire chief or municipality had had more experience or difficulty in attempting to manage a fire department of approximately 475 firefighters with just two officers excluded from the bargaining unit. I can assure you it is not a very comfortable or enviable position to be in and I have much admiration for fire chiefs today who are willing to accept this challenge and work under such adverse conditions, all of which are imposed by the abusive use of the Fire Departments Act.

When the Fire Departments Act was originally enacted years ago, it was obviously passed and administered with a spirit of good intent, but today the fire services in many municipalities are stagnated by those locals of the fire associations that insist on exercising the literal interpretation of the present-day act regardless of the consequences to the organization and good management of their department.

I'm certainly aware there may be a few fire chiefs who do not agree with my view on the need for further management positions out of the bargaining unit. Indeed some may well appear before this committee — and some have — and say they do not and did not have a problem. To them I can only say congratulations and good luck, because as long as the existing legislation is in place, it could be just a matter of time before your department could experience similar management difficulties.

It is only fair to acknowledge that certainly not all locals actively restrict the officers in the fire department from performing in a responsible management manner, and instead prefer to have an efficient management concept to the advantage of all, and I commend them for that. But we must bear in mind that the firefighter associations believe in local autonomy and have little or no apparent control over the actions taken by the individual local, even when these actions or behaviours seem to be to the general detriment of the image of the fire service or even the beliefs of the associations and other locals.

Picture if you will where only the fire chief and deputy chief of the fire department can administer any form of discipline, even a minor reprimand to a member of the ranks, while we have any number of officer ranks in between: acting deputy chief, platoon chief, district chief, captains or whatever. Now these officers are not permitted to even bear witness to the infraction because they must not knowingly wrong a brother. If they do and it results in an arbitration, then the lawyer for the union

may declare the officer, who of course is in the same bargaining unit as the accused, as being a hostile witness. This does happen.

The position taken by officers within the bargaining unit has many conflicting effects. On the one hand, they can take a management stand and risk the position of being under constant, considerable badgering and intimidation from the local executive, or they can succumb, and sometimes conveniently, to the pressure and not act in an appropriate supervisory role. Indeed, I've seen some fine, conscientious officers take early retirement rather than compromise their ethics to uphold their management responsibilities.

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There is little doubt that an officer would be much more efficient and effective to carry out his or her responsibilities if they were unencumbered by the oath of brotherhood which appears at times in many cases to supersede their obligation to the employer.

As early as 1974 the then borough of Scarborough fire chief was admonished by the local association for permitting an acting deputy chief to issue directives and insisted that in the future all directives would only come from the chief or deputy. Bear in mind that the acting deputy chief's responsibility was to supervise the function of the firefighting and mechanical divisions of the fire department. That same year, the fire chief and council received correspondence from the local that district chiefs were not to be consulted or even assist management in the formation of any policy or directives. Of course I received a similar letter in 1977.

In another instance, the assistant deputy chief was confronted directly by the local association executive who demanded to know the reason he was in his office at fire department headquarters one evening after what they thought should be his regular hours — the assistant deputy chief. They even pursued this with vigour to a labour-management committee. The local insisted he was exceeding his work hours and wanted to know what he was working on. They were certainly more than reluctant to accept his explanation that he was only working on his youth bowling league activities in the quiet of an office. The point is, of course, surely no officer, regardless of rank, should have to submit to this form of indignity and harassment.

Even the Occupational Health and Safety Act could not escape the weaknesses imposed by the infamous Fire Departments Act. The Occupational Health and Safety Act required that a safety committee be regularly convened consisting of supervisors and workers. The act defined a supervisor as "a person who has charge of a workplace or authority over a worker." According to the association local, only the chief and deputy chief qualified as supervisors as only they were not in the bargaining unit.

The worker side of the committee would of course be represented by who else but the union members, and the only time that officers, from the acting deputy chief down to captains, inclusive, would be allowed to appear would be at the discretion or permission of the union executive. We thought that at the very least at that time the director of training would obviously be a welcome and valuable



member of the committee because he taught safety by the very nature of his job, but that was not to be.

If you really want an unrealistic scenario, picture the following: Under the present Fire Departments Act, combined with the frailties of a promotional system imposed on a municipality by an arbitrator, the president or executive member of a very militant local is placed in a position of acting in a senior officer's rank and he retains the position of union executive. Wouldn't that lead to an obvious conflict of interest and a possible nightmare for the fire department? Impossible? Absolutely not. It's happening.

To further illustrate the restrictions placed on the department and its officers to operate efficiently is the local's interpretation of the clause contained in the Fire Departments Act, "The hours off duty of full-time firefighters shall be free from fire department duties or calls." Obviously this meant from all fire calls.

One morning a district chief had a phone call placed to a firefighter at his home to advise him not to report to his regular station, but to report to another station for someone who had phoned in sick. We received a written grievance. The grievance stated that the firefighter objected to being phoned at home because it violated the Fire Departments Act. He also wanted an apology from the district chief involved, and the local, of course, supported the grievance. It certainly illustrates the local's intent to hamper efficient operations.

In summary, the problem with the existing act is perhaps best described as follows: In 1987, after a comprehensive review of the Scarborough fire department, the supervisor of the Fire Underwriters Survey, which is financed by the Insurance Bureau of Canada, stated in his final review report, "The management problems result from restraints that appear to be imposed, in large part, by labour arbitration rulings based on the firefighters' collective agreement, and an outdated, unsuitable Fire Departments Act."

Even arbitrators who have lectured at the management courses of the Ontario Fire College have referred to the Fire Departments Act as antiquated and archaic.

Changes to this act have been pursued by many municipal organizations, with the first really serious government consideration occurring in 1981 when the Honourable Roy McMurtry initiated a committee to review necessary changes. That resulted in four serious drafts being distributed between 1982 and 1984, and I believe in 1985 a fifth discussion paper was issued, all of which were vehemently opposed by the firefighters' associations. They liked the status quo, and why wouldn't they?

Unfortunately, with the frequent changes in the office of the Solicitor General and the changes in government, another 12 years have passed and this province is still saddled with the restrictive legislation. Surely fire departments deserve better. Surely municipalities deserve better. At least the proposed legislation would provide an increase in the degree of management proportional to the size of the department.

In closing, I would urge members of this committee to look favourably upon this section of Bill 84. I commend the Solicitor General for taking this very positive, progressive and indeed courageous step.

**The Chair:** I thank you for your presentation, sir. Basically, we've used up all the time. There's no meaningful time to allot to the caucuses and I therefore thank you again.

#### CANADIAN ASSOCIATION OF RETIRED PERSONS

**The Chair:** Our next presentation will be for the Canadian Association of Retired Persons, Shirley Yee and Ian Downie. Make yourself comfortable.

**Ms Shirley Yee:** Good afternoon. My name is Shirley Yee. I'm the director of public relations for the Canadian Association of Retired Persons, and my colleague Mr Ian Downie, who has had extensive experience working with seniors, is a volunteer with our association. He is also here representing CARP. We are here today on behalf of the president of our organization, Mrs Lillian Morgenthau. She is unable to be here because she is meeting with the Minister of Finance, but she sends her greetings.

I want to thank the committee for allowing us to make this presentation. I'd like to give you a very brief background on who we are. The Canadian Association of Retired Persons is the largest national organization of mature Canadians. We have 285,000 members across Canada and 190,000 members in Ontario who are 50 years of age plus, retired or not. We receive no funding from any level of government, ensuring our independence and neutrality. Our mandate is to foster, promote and advance the concerns of mature Canadians, and indeed of all Canadians and Ontarians, regardless of age.

CARP's position on Bill 84: Our members are deeply opposed to Bill 84. Seniors in general are extremely fearful of the implications raised by sections of this bill for a number of reasons and I'd like to briefly go over that. The reasons for CARP's concerns are as follows, and I think there have been some references made previously to these concerns.

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Seniors are especially vulnerable to fires. According to a recent article in the Ontario Fire Service Messenger — Mary Prencipe, "Exploring the Fire Problem Using Fire Loss Statistics," September-October 1996, pages 5 to 7 — the largest number of the 1,300 people who died in fires between 1985 and 1995 were aged 65 and over, accounting for 24% of the victims. A higher percentage of these seniors were also physically disabled at the time of the fire, in comparison with the rest of the population, and it is the policy of this government to have frail seniors remain in their own homes and in their community as long as they can safely do so.

Accordingly, seniors have every good reason to be fearful of the impact of the measures proposed in Bill 84. We understand that the single largest number of calls to the firefighters' 1-800 number, when the association ran its public alert campaign in February 1997, were single, senior women who lived alone, reflecting awareness of their vulnerability. But the concern over the threat to the safety of the community posed by these measures is by no means found only among seniors, regardless of their gender, since 17% of the victims were under the age of 10.



As we understand Bill 84, it intends to enable municipalities to reduce expenditures and, we fear, the standards currently set for firefighting. This bill will allow municipalities to achieve what is euphemistically called "efficiencies" by the provincial government by adopting a number of counterproductive measures.

These measures include the following possibilities:

(1) The reduction of the number of firefighters currently available in firehouses on a 24-hour basis: Again, as has been previously noted, studies derived from the experience of firefighting across North America demonstrate that at least four firefighters are the minimum necessary on a vehicle arriving at a fire at first response to ensure maximum effectiveness.

(2) The hiring of more part-time firefighters, who will be less trained and experienced and will severely weaken the team concept that is essential for sound firefighting.

(3) The privatization of firefighting, which has had very mixed experience in the United States where it has been tried. Our understanding, from studies, is that privatization has proven most successful in wealthier communities like Scottsdale, Arizona, in which the municipal council established and enforced stringent fire codes for developers, especially for the home builders. We are concerned that only wealthy communities in Ontario may adopt such standards, if they have the political will to do so.

In fact, Bill 84 does not make sprinkler systems mandatory in seniors' nursing homes, despite many coroners' reports which request that they be made mandatory. Nor, by the way, does the revised Ontario building code, recently introduced by this government, make sprinkler systems mandatory for nursing homes, although seniors' groups had requested that this should be done. For the majority of us, the consequence of lowered standards can be very severe.

Moreover, 60% of the work of firefighters today is not directed only at fighting fires. Rather, firefighters deal with other emergencies, such as defibrillation, which is of vital importance to seniors, delivering babies, extractions from automobiles, and responding to various kinds of injuries. People call firefighters because they are aware that they provide a well-trained, experienced, highly efficient and especially fast service, reflected by their average response time of four to six minutes in an emergency call.

In conclusion, CARP affirms that the proposals in Bill 84 are misguided. They are aimed at fixing something that is not broken. In our opinion, the bill will enable municipalities to attempt to save money that will, unfortunately, prove costly to the public, including seniors, in the short run as well as in the long run. CARP is asking the members of this committee to look to the future on this issue, because as we have previously noted older adults are the single-largest group who die in fires.

As the author of the article in the Ontario Fire Service Messenger, cited earlier, noted, "Because this age group," that is, seniors, "is growing at roughly four times the rate of the general population, they will become a more significant component of our fire problem in the future." Based on the evidence of experience, we urge this committee to advise the government to scrap Bill 84.

**Mr Ramsay:** Thank you, Ms Yee, for your presentation. I was wondering, when on page 2 you note some of the changes this bill would allow, from your point of view why would the Harris government sort of tempt our municipalities to cheapen the fire services here and put people at risk? Why do you think this is happening? Because I, like you, agree that we've got to have absolute good fire services to protect people.

**Ms Yee:** I don't know why they would do this. That's one reason we are reacting towards this, though. We represent seniors, but as I was saying, we represent all Ontarians and Canadians. From what we've read, from some of the newspaper articles — we're not trying to appear like experts — what it comes across as is reducing expenditures. I don't know whether there's more to it than that or not, but that's what it seems like. What we're concerned about is, yes, we have to reduce deficits, but at what cost?

**Mr Downie:** would you like to add to that?

**Mr Ian Downie:** The cost, as long as it doesn't affect the population and affect the great job the firefighters are doing now, is acceptable.

**Mr Ramsay:** Because of course part of all the pressure this government is under is their promise of a 30% tax cut. We all like to pay less taxes, that's only human nature, but are you saying today that you believe that the seniors in Ontario would be willing to pay their taxes for good, first-rate public safety and security services provided by the government?

**Mr Downie:** Are they not doing so now?

**Mr Ramsay:** I believe they are and this is the concern of Bill 84. What we're seeing here is one of the tools in the big toolbox that came down with Bill 26 to allow the municipalities, which are under a squeeze from this government through all the downloading we've been reading about in the last little while, some room to cut corners. While I think all of us around this table want to see more cost-effective and efficient government, I would hope all of us in this room would never want to see that happen when it involves public safety and security.

**Mr Downie:** We agree that we wouldn't like to see that happen, yes.

**Mr Ramsay:** Good. Thank you very much.

**Mr Kormos:** Thank you, Ms Yee and Mr Downie. I come from down in the Niagara region, which is, I am told, the oldest population in all of Ontario and second only to Victoria, BC, in terms of all of Canada. We have the very unique demographics of that area — and I'm contributing to that in my own right, that shift in mean age or median age, so I'm very sensitive to what you have to say. I don't think you were here this morning, but over the course of the day we've heard some really graphic and compelling arguments consistent with yours.

I used to be on a city council, before I got elected here. My sense is that the minimum standards are being reduced with the inclusion of utilization of part-time firefighters, whatever that means, and nobody has really talked about it yet, with the prospect of privatization, for-profit corporate fire services. I'm all too familiar with the proposition where the minimum becomes the maximum, because that's almost the nature of the beast. Down where I come from, and I know it has happened across



the province, firefighters themselves have fought for standards for what they've called minimum staffing, your proposition of a minimum four firefighters per vehicle. I recall the city digging its heels in, saying basically, "No way, José," and forcing it to arbitration. Sadly, in the instance of the Welland firefighters, they weren't successful at arbitration.

I hear the arguments coming from some people here saying: "No city council would ever do it. No city council would ever descend to those new and lower minimum standards." I say, "Horsefeathers," because been there, done that. I think that's almost the very nature of the beast, especially now that city councils are getting whacked. This government keeps talking about being fair, so sometimes we say: "You're always whacking these people with fairness. You're going to beat the hell out of them with fairness." But the municipalities are being hit hard with downloading, and I'm inclined to agree with you that these new lower standards are going to become the maximum for a whole lot of communities as the economic pressures are there.

I'm with you. I just know too many old folks — and we saw some of the stats. Remember, folks? We saw some of the stats the first day from the fire marshal about deaths of people over 60, and they're the very innocuous sort of things: cooking accidents, accidents with stoves, accidents smoking. So yes, we're talking about perhaps a higher-risk population and one that's going to be ill served by these changes.

Thanks for coming. Gosh, I really appreciate it and I know the folks in Niagara do.

**Mr Downie:** Thank you so much for your words.

**Mr Carr:** Thank you very much for your presentation. As you know, probably having followed some of the debate, the areas of concern relate to part IX, the labour portion. The rest of it, I wouldn't say everybody, but there is fair public support for it. I think even Mr Ramsay said that the rest of the bill he likes, take out part IX and he would be willing to support it, and you talked about some of the sections in IX.

Are you supportive of some of the provisions that are outside of the part dealing with labour that give stronger powers to the fire marshal in the rest of the bill? Are you supportive of any of those measures that have been brought forward?

**Ms Yee:** I think mainly today we weren't looking at — we are supportive of the measures that provide, I think like Mr Downie was saying, safe fire prevention. Any of those are fine. But again, that has to meet those certain standards that Mr Kormos was talking about. So when it gets into the speed and efficiency, gets into the IV to VI, you know, fire prevention, all those, as long as it reaches the minimum, then we're supportive of that, and that's basically what we were dealing with today. I'd be a little bit reticent about getting into other parts of the bill right now, because we really focused on this for this particular hearing.

**Mr Carr:** Thank you very much. Good luck to you.

**The Chair:** Thank you very much for your presentation here today.

**Ms Yee:** You're welcome.

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## SUSAN AND PETER NERO

**The Chair:** Our next presentation is Susan Saganski-Nero and Peter Nero. Welcome. Please proceed.

**Mrs Susan Nero:** Thank you very much. My name is Susan Nero; Saganski is my maiden name. This is my husband.

**Mr Peter Nero:** I'm Peter Nero.

**Mrs Nero:** We are residents of East York.

Honourable members, ladies and gentlemen, thank you for giving us the opportunity to speak to you today on a matter of great importance, Bill 84.

We live our lives oblivious to the tragedies that could harm us or our families. Until we're faced with a situation, one doesn't give much thought day to day to the operations of a fire department, a police station or a hospital emergency room. Many of us don't get up every morning and say, "I wonder if everyone showed up for their shift at the firehall this morning." It's a reality. We all get so busy in our own lives and we do not stop to think about the essential services in our community until we have need for those services.

Years ago the fire department fought fires. That was their *raison d'être*. A fire broke out and the fire department was summoned. Traffic accidents and medical emergency calls were not part of the firefighter's duties. Today, over 60% of emergency calls in a firehall are non-fire-related emergencies, and they include auto extrications, medical emergencies, defibrillations, high-angle rescues, hazardous materials spills, icewater rescues, gas leaks and explosions, broken power lines and confined space entries. It currently takes a full-time professional firefighter four years to gain the skills and experience needed to be a first-class firefighter ready for any emergency.

As a taxpayer, I have an expectation that should I be in a car accident or should my house catch fire or my dinner guest suffer a heart attack, with one quick call to 911, a fully qualified team will arrive to my aid within minutes.

Bill 84 threatens to take away that feeling of security. Cutbacks to such a vital system not only put myself, my family, my friends and yours in danger, it takes a fundamental right to feel safe away from me. Calling in firefighters on an as-needed emergency basis is not the answer. I, as a victim, would want to know that the team responding to my call is experienced and professional.

The success of a team is predicated on each team member being in sync to get the job done and save lives. If I were in that emergency, I would not want someone on the team who hadn't worked enough shifts to gain the appropriate experience. I would expect a knowledgeable team of firefighters to arrive who would not fall apart under the extreme pressure of the immediate situation.

The government insists that part-timers would be as well trained as full-timers. However, if those part-timers are not on the job often enough, they wouldn't gain the valuable experience that only real emergencies could teach them. If they weren't in the firehall as often, they couldn't receive the benefits of continuous training and equipment maintenance.

**Mr Nero:** Bill 84 will turn firefighters into managers. Are they there to push paper or to save lives? Why have so many managers? They are there to provide emergency help to the community, not be bureaucrats. "All hands on deck" should be the way the system stays.

Imposing a management level will separate the team. If the fire captain becomes a manager, would they still be on the team going out to fight fires? Surely the thought of the most experienced person on the team being left behind and not able to coordinate their activities is absurd.

Section 43(10) states, "The fire chief may call in off-duty firefighters if, as a result of a major emergency, the fire department needs the services of more firefighters than are on duty." This wording could lead to a fire department being understaffed by part-time workers, with the extra firefighters being called in to meet any undefined major emergency. Rather than a staff of full-time firefighters who could immediately deal with a larger emergency, departments could be left to rely on the ability of the off-duty staff to arrive in time to effectively deal with the emergency.

As well, the cost of calling in these off-duty personnel should be considered. I would expect that any labour agreement would specify higher wages being paid for firefighters called in while off duty. This cost should be weighed against the cost of employing a department of full-time regular firefighters.

I would also not want to wait for part-timers to arrive should an emergency occur. In an emergency every second counts. There are no second chances. We have to ensure that the system works well the first time. If it doesn't, people could die. The bill in its current form does not even set minimum standards for response times, which could lead to a greater loss of life and property. Understaffing firehalls and emergency vehicles means that firefighters would always be scrambling at different times, and it would be very hard to coordinate a team when the number of players keeps changing.

Section 41(1) defines an employer as "a municipality, person or organization that employs firefighters." This opens the door to privatization, and what would be the end result? Could individuals contract out to private firms for their emergency needs? Would municipalities eventually abandon fire departments altogether and leave citizens to deal with companies operating solely to turn a profit?

**Mrs Nero:** Would private firms have the community involvement that full-time firefighters currently practise? Every fire department in the province currently selects a charity or charities to support in their local community, such as the food banks, children's aid and muscular dystrophy. They have a strong sense of duty to their community, and this sense of commitment comes from an organization that has pride in its profession. Disrupting the fire service organization as it stands would disrupt this sense of pride and community involvement. Once again, we would all lose.

Firefighters also play a major role in fire education, particularly in the school system. Fire safety training starts at a very early age. We cannot jeopardize this valuable educational process for our children. Cutbacks in the fire department and replacement with part-time

workers may destroy much of the great work that has been done so far.

Bill 84 should be addressing some of the major safety recommendations outlined by dozens of panels and coroner's juries, which it currently isn't doing. If the government went through all of the expense of setting up these panels and juries, why aren't they listening?

The recommendations put forward were all to improve the public's safety. Even though the cost of fire prevention is rising, the government is not providing the adequate funds to run it. Municipalities may be forced into a situation where they have no choice but to cut back the emergency response to cover the shortfall. Is that what we as taxpayers expect? I think not.

Amalgamation, privatization or reorganization could reduce the standards of firefighting in my community. This new fire department wouldn't be bound to meet the standards currently negotiated. That in turn would create a threat of understaffing, lower levels of training and experience, and a greater risk to the general public.

As a citizen of my community, I expect the fire department to respond quickly in fully staffed vehicles and with effective teamwork. This is the only manner to successfully deal with the next emergency. Bill 84, as it reads right now, leads to ultimate disaster. For the safety of our families, friends and neighbours, we strongly urge the government to rethink its position on fire safety and amend Bill 84.

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**Mr Kormos:** Thank you kindly. It's remarkable. During the course of today we've been hearing from just plain folks. It's not been firefighting associations and so on. We had some doctors here from Wellesley Hospital, one of the hospitals that the government's going to be shutting down, but doctors who had expertise in burn treatment, again opposed to Bill 84.

You talk about the private, for-profit firefighting services. I read a report that Rural/Metro, one of the operators, has a history of gaffes and tragedies as a result of their inability to fight fires down in the Phoenix area. But they met with the CAO, we're told, of the city of Waterloo, and among other things proposed that one of their approaches would be to impose 66-hour work weeks. That's how they make the profit, right? And undoubtedly a firefighter paid at an extremely low wage. Can you imagine being the person in crisis and having that low-paid so-called firefighter showing up at your house, in blazes, on the 65th hour of his 66-hour week? That would just be so tragic, so sad.

You folks have an insight that I wish the government would become a little more sensitive to, because as residents of East York, whether you're tenants or property owners, you pay taxes, one way or the other. Part of this is all about when the government's got to borrow \$22 billion over its term to help finance their tax break. They've got to borrow that much and add to the debt, but the rest of it they've got to get by cutting back on the transfer payments to municipalities. Could the government have that tax break back if only they would leave things like firefighting services alone and maintain the quality of them? Would you be happy that they kept that tax break?



**Mrs Nero:** Absolutely.

**Mr Nero:** Yes, we would.

**Mrs Nero:** Yes. I think for the amount of taxes that we pay, the expectation is always there that essential services in the community will be there when we need them. So, for sure.

**Mr Ron Johnson:** I thank both of you for your presentation. I heard two really significant concerns that you had, number one being privatization, and I want to tell you both that I agree with our concerns with respect to that.

The second was the implementation of part-time firefighters. I had an opportunity just before we came back after the lunch recess to speak to Bruce Carpenter, who's head of one of the associations and a couple of other reps from firefighters, their concern really being that part-timers would be actually riding on the trucks with them to fire scenes.

My question to you is this: Given that we are now putting in place mandatory fire prevention and community education programs, how do you feel about having, perhaps in a smaller community, somebody part-time doing that in the community? This bill would allow that. Somebody who's going to be providing education programs to a community, perhaps a smaller community, only needs to do it part-time. How do you feel about a part-time person being used for that?

**Mr Nero:** I would doubt, say, for children, impressionable younger children, that a person who is devoted specifically to that task would carry the weight that a full-time firefighter would who goes out to fight the fires.

**Mrs Nero:** It's a credibility issue to a certain degree. If that part-timer hasn't had the experience or the years of commitment to fire service, will the part-timer be able to relay experiences from the heart and be able to tell the children exactly how they should be dealing with fire education? I think it's all part and parcel of the whole process.

**Mr Ron Johnson:** I appreciate the input.

**Mr Kormos:** We're not talking about Wal-Mart here.

**Mr Ramsay:** I think I'd forgo my questions to Ron Johnson. He's doing a great job for me here. I'd let him continue on that line of questioning.

I want to thank you very much, though, for your presentation. What I think is very interesting is that when you talk about the team approach, how important the teamwork is, a previous presenter gave the analogy of a football team. Could you imagine running a football team with six players on the field and then, when needed, you brought in some part-timers? I think that's a very sound analogy, that the way the game is played, for safety and security and for the job to be done properly, it's important to have the full team in place. That's what this is about.

We've developed a system where we've got a full team in place, and through that we've got the highest firefighting standards in the world in this province, and we should all be proud of that. But because of the cost-cutting pressures, this government is going to put pressure on that and we're going to dilute those standards. I, for one, won't stand for that and I'm glad you've come

today also to defend that, because we should be proud of those standards, that we live in a great place like Ontario and we can depend on our firefighting departments to be there when needed.

**The Chair:** Thank you very much for your presentation here today.

SHERRY SENIS

ALLIANCE OF SENIORS TO PROTECT  
CANADA'S SOCIAL PROGRAMS

**The Chair:** Our next presenter is, Sherry Senis, a councillor of the town of Pickering. She will be accompanied by Jim Buller, who will make a presentation on behalf of the Alliance of Seniors to Protect Canada's Social Programs. Welcome. We have only allotted 15 minutes, so in view of your two presentations, you might have to hurry them up a bit because you will only get 15 minutes. Please proceed.

**Mrs Sherry Senis:** Good afternoon. My name is Sherry Senis and I'm a local councillor with the town of Pickering. I am here to speak today on my constituents' behalf. I also have with me Jim Buller, who will be speaking on behalf of the seniors at my conclusion.

I would like to thank the committee for giving us the opportunity to speak out in opposition of a section of Bill 84, and I'd also like to thank our local MPP for being in attendance today to hear what we have to say.

In a recent survey done by Metroland, specifically the News Advertiser, where the paper sought out reader opinions on the community services supplied by government, in Pickering at the top of the list was the fire department, where 93.3% of the readers judged it to be good or excellent. With this high acceptance level, does it make sense to tinker with something if it ain't broke?

Specifically, the areas we oppose are replacing full-time firefighters with part-time staff, reducing the number of firefighters and privatizing of service. I would like to address each issue separately.

Replacing full-time firefighters with part-time staff or volunteers will jeopardize the public safety of the residents of Pickering, as the part-timers have less training and experience. It takes a professional firefighter at least four years, working full-time, to acquire the skills needed to be ready for any emergency. You just don't get that level of training and experience with someone who is firefighting on a part-time basis. The town of Pickering will have a lower standard of protection when an emergency hits, not to mention the safety of the fire crews whose lives must depend on this less-experienced staff. Imagine the thought of part-time doctors. We wouldn't even entertain the thought for a second. They are professionals who save lives. So are firefighters. Part-timers are just not acceptable.

Reducing the number of firefighters further increases the risk of death to the public and firefighters alike. In such a labour-intensive, physically demanding job, this recommendation should not be an option to look for cost-cutting measures to make a more attractive bottom line in a budget. It is one thing when our garbage isn't picked up or the road doesn't get plowed after a snowstorm; however, it is absolutely unacceptable to have any



member of the public or, God forbid, any child, trapped in a burning building for any length of time.

Privatization is the most frightening prospect of all. In my mind, the fire department and police department should never, ever be contracted out to a private company. Too much emphasis would be placed on profit and not enough on lifesaving. I don't care how altruistic the company would say they would be.

As a politician, we are dealing with a similar situation with the province, faced with possible amalgamation of our towns. The province is saying, "Consolidate; be more accountable and efficient." I can't argue with that. I urge the firefighters of the different fire departments to insist on getting involved in the budget process of your municipalities. Who better knows where cost savings could occur than you, the people doing the job? Suggest different ways that could streamline your fire department. Don't just leave it up to your chief. If you are competitive, no private company could compete. If you do this, you will close the door to privatization once and for all.

I thank you for allowing me to speak and would ask Mr Jim Buller who is here today to make some comments on behalf of seniors.

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**Mr Jim Buller:** Thank you. Members of the committee, as seniors closely allied to the half-million-member Coalition of Senior Citizens' Organizations, we wish to go on record as expressing our support and appreciation of Ontario's professional firefighters. These firefighters are true, courageous professionals, who have saved countless lives and prevented an enormous amount of property damage due to their prompt response times in answering the call to any and all emergencies.

We are dismayed that Bill 84 makes no attempt to enact any of the major recommendations of coroners' juries to require mandatory working smoke alarms, enhanced emergency dispatch and mandatory sprinkler systems in all seniors' homes, all of which have been ignored by the provincial government.

We commend Scarborough firefighters for donating \$250,000 and countless hours of their time towards the enhancing of Scarborough General Hospital's burn unit. We are alarmed that the provincial government has closed this unit down completely and is redirecting this type of emergency to the Sunnybrook hospital, even though Scarborough is underserved in hospital facilities. The government wants extensively harmful changes to the excellent fire protection services already in place. These harmful changes are as follows:

(1) Fewer firefighters where and when they are needed: Bill 84 makes it easier for municipalities to understaff fire stations and emergency vehicles, with the calling in of firefighters only after an emergency occurs. With a system like this, response times will be much slower, wasting precious seconds and minutes. Can we really afford the risk of delay when lives are on the line?

(2) Part-time firefighters will have less experience: Under Bill 84, full-time professional firefighters can be replaced with part-time firefighters with less training and experience.

(3) Privatization: Bill 84 allows any person or organization to operate a fire department. This raises the possi-

bility that firefighting may be privatized. Privatized, for-profit firefighting has had lots of problems in the US where it is employed. Do we need these problems here in Ontario?

(4) Bureaucratic expansion: Bill 84 will turn the firefighters into managers, in some cases tripling the management ranks. Will we have to deal with a bureaucracy in an emergency? Why make changes when even the Ontario fire marshal says, "The current system promotes teamwork during an emergency"?

(5) Jeopardizing teamwork: Bill 84 will jeopardize the teamwork that is vital to saving lives in an emergency. Reducing the number of firefighters, using part-time firefighters and turning firefighters into bureaucrats hampers the firefighting team.

If these changes are designed to save money, there is much-needed money in cancelling the 30% tax cut to the wealthy, who already received a tax cut in 1984 from the Mulroney government, with the support of Jean Charest. Why does Frank Stronach, the CEO of Magna International, who pocketed \$47 million last year, need another income tax cut? The same question applies to the presidents and CEOs of the major chartered banks and financial institutions, with their multimillion-dollar annual salaries and bonuses.

It seems this government is acting in a reckless, dictatorial and extremist manner in attacking firefighters, teachers, nurses, health care and child care workers, the poor, the disabled, senior citizens and all disadvantaged Ontarians in order to redistribute wealth to the already wealthy. We urge Bill 84 be withdrawn forthwith in the interests of the public good.

While we're talking about saving money, I have a practical suggestion for all the members on the government side. I just have the Toronto Star here of April 4, dateline Dallas, Texas. It's written by Kathleen Kenna, and it states that the provincial government is going to be spending \$50 million of our hard-earned taxpayers' money in Texas to lure business to Ontario. If they're going to repeat this in Florida and California and New York state, we'll be bankrupt very shortly. I think this type of harebrained idea should be scrapped immediately. We can't afford to throw away our money, our taxpayers' dollars, with this type of ill-advised action.

I would urge that the bill be reconsidered.

**Hon Janet Ecker (Minister of Community and Social Services):** Thank you very much, Mr Buller and Ms Senis, especially to Ms Senis for taking the time to come down today. I know how busy you are.

I have a quick question. You raised the issue about privatization, as you say. It's my understanding that municipalities currently have the authority to make those kinds of privatization decisions now, that there is nothing in Bill 84 that changes that. I would ask you, as a very experienced municipal councillor who has frequently been involved in community safety issues, as you are today, why you would think that your council, for example, would want to change its position. It hasn't privatized now, obviously, for very valid reasons. Would you see it wanting to do that in the future?

**Mrs Senis:** The wind is changing, and we're going to have to start to adjust the sails.



**Hon Mrs Ecker:** But you've said you see it as a safety issue, so why would municipal politicians who are accountable, who are electable — you are here today because of your response to these individuals in our community — why would you put that at risk by doing something that you think is unsafe?

**Mrs Senis:** I personally would not do that, but I can't speak on behalf of the people who will follow. As far as I'm concerned, Bill 84 opens the door that much further.

**Hon Mrs Ecker:** Just another quick question, if I may. You mentioned physicians. Physicians, whether they are part-time or whatever, meet very strong standards to be physicians, and there are literally thousands of those physicians who are currently offering care part-time in the province, and very excellent care, in many institutions. If there are appropriate standards, can part-time firefighters work?

**Mrs Senis:** I feel that it is the type of occupation where we are better off if we have them as full-time professionals, as they do with doctors.

**Hon Mrs Ecker:** So you're saying part-time physicians don't give as good care as full-time physicians?

**Mrs Senis:** I'm not suggesting that, no.

**Hon Mrs Ecker:** I hope not, because I would see the question as standards in training as opposed to the amount of time someone is offering the service.

**Mrs Senis:** Perhaps we wouldn't be as concerned if the bill were tightened up so that if that is what you mean, that is what you say.

**Mr Ramsay:** Thank you for your presentation. I've just been going through it here and I think the start, to help answer Mrs Ecker's question, is that the Harris government is putting the screws so tightly to municipalities across the province that they are going to be forced to cut corners anywhere they can. I think if this is such a strong provincial interest here to have good, efficient and safe firefighting protection in this province, then all members of all political parties around this table should ensure there's an amendment in this bill that would absolutely forbid the privatization of fire services in Ontario. Everybody sort of says, "You wouldn't really do it, would you?" If we feel that way, then let's just put it in there, "Thou shalt not privatize the fire service in Ontario," period, done. We'd have a guarantee. That's the type of amendment I'm going to bring forward, and I would look towards the Tory members to support that.

**Mr Kormos:** Thank you, Councillor Senis and Mr Buller. I've wondered the same thing about Frank Stronach myself. That's an aside.

**Hon Mrs Ecker:** He can donate it back.

**Mr Kormos:** His name wasn't on the list of donors, remarkably.

I think it's particularly impressive that the councillor comes here. She has made it quite candid; she's speaking from her own perspective. I appreciate your contribution.

Earlier I was telling the folks from CARP, the Canadian Association of Retired Persons, I come from Niagara, where we have one of the oldest populations in all of Canada, second only to Victoria, I'm told, and I reflected with them about firefighters intervening in incidents of the need for fire suppression. But I suppose seniors — as we get older, our likelihood of having

contact with firefighters for intervention in health emergencies becomes more prevalent. So it's not necessarily a fire suppression issue, but we rely on them for their emergency medical aid. I appreciate being reminded of that. I think it's important for all of us to be very conscious of. Thank you kindly, both of you. I appreciate it.

**The Chair:** Thank you very much for your attendance here today and for your help.

1450

BRAMPTON FIRE DEPARTMENT  
MISSISSAUGA FIRE DEPARTMENT  
CALEDON FIRE DEPARTMENT

**The Chair:** Our next presentation is the city of Brampton, Fire Chief Verrall Clark. Welcome, gentlemen.

**Mr Verrall Clark:** Thank you, Mr Chairman and members of the committee. My name is Verrall Clark. I'm the fire chief of the city of Brampton. On my left is Cyril Hare, fire chief of Mississauga; and on my right is Boyd Finger, fire chief of the town of Caledon. We're here today representing the three fire departments in the region of Peel.

When considering the effects of Bill 84 on the fire service, we must first realize that it covers every municipality in Ontario, from a town of 100 to a city of 2 million. There are 645 municipalities in Ontario that have established fire departments, providing various levels of service. Of these 645 fire departments, 486 are volunteer, 127 are composite and 32 are full-time firefighters.

In the region of Peel it covers the city of Mississauga, with a population of 560,000 and a fire department of 500 full-time personnel. The city of Brampton has a population of 270,000 and a fire department of 265 full-time personnel and 45 volunteer firefighters. The town of Caledon has a population of 39,000 and a fire department with two full-time personnel and 200 volunteer firefighters, the largest volunteer fire department in Ontario. So you see that the three of us fire chiefs cover all spectrums of fire departments in Ontario and certainly cover all areas of Bill 84.

No legislation can be expected to cover every situation in such a diverse group of municipalities. Because of that fact, the fire service in Ontario has been designated as a municipal responsibility. At the same time, the province has realized that there must be certain standards or guidelines to ensure that every citizen receives at least a basic level of fire protection and fire safety. This is what Bill 84 provides, through the mandatory requirement of establishing a program in the municipality which must include public education with respect to fire safety and certain components of fire prevention; and to provide such other fire protection services as it determines may be necessary in accordance with its needs and circumstances.

For the first time in Ontario, a government has recognized the need to provide at least a basic level of fire protection. It would be nice to dictate that every municipality must have a fire department which would include fire suppression, but is it realistic, especially for those little villages and hamlets? The citizens and the councils of those municipalities will determine what level of fire protection they can afford.



At least now they will receive public education in fire safety and certain components of fire prevention, a vast improvement over what they've had in the past. The three fire chiefs in the region of Peel strongly endorse the Fire Protection and Prevention Act, 1996, and as the regional fire coordinator for 1997, I am speaking on behalf of those three fire chiefs.

To properly assess the impact of Bill 84, it is important to relate it to actual municipalities rather than espouse the hypothetical. The "what if" theory of debate is no longer acceptable. Since Bill 84 was tabled last fall, citizens have called us, the news media have called us and the firefighters have called us, all of them expressing their concerns about what was going to happen with the passage of the Fire Protection and Prevention Act, 1996. We have responded to each of them that in the region of Peel the fire service will only improve.

During all of these enquiries, there were a number of issues raised regarding Bill 84, and at this time I would like to relate to you some of those discussions and provide you with our position.

Automatic aid is an agreement between two municipalities that the nearest available resource will respond to an emergency regardless of municipal boundaries. Surely this concept cannot be opposed by anyone who truly believes that fire safety and life safety are the priority of the fire service. Consider for a moment the consequences of a fire vehicle refusing to cross a municipal boundary to perform a rescue or to suppress a fire. Who would be responsible for this loss of life? We have listened to speaker after speaker over the last two days stating their belief that response time is critical. Here is the opportunity to ensure the quickest response available. Automatic aid should be a legislated right and all parties — firefighters, fire chiefs and municipalities — should be supporting its passage.

Creating a management team: Currently under the Fire Departments Act each department, regardless of its size, is limited to just two managers excluded from the bargaining unit: the fire chief and the deputy chief. Major urban departments with up to 1,200 members are currently operating under this limitation, as is the city of Brampton fire and emergency services with 310 personnel, the city of Mississauga with 500 personnel and the town of Caledon with 200 personnel. No other organization, neither private nor public, must operate under these restrictive conditions.

Bill 84 will enable every fire department to have an effective team of managers who can manage their department in the best interests of the public without having conflicting obligations to the union. Additional management personnel will come from within the current organization. Turning firefighters into managers does not reduce the effectiveness of the firefighting teams, it merely adds to their value within the organization and the community.

Part-time firefighters: Once again we must realize that this legislation will encompass every municipality in the province regardless of its size. Small municipalities may not need or be able to afford full-time employees, yet with the proposed new legislation, the mandatory requirement of providing education and fire prevention programs

will exist, a requirement that the entire fire service supports. The addition of part-time firefighters will be especially beneficial to those municipalities.

Recall for emergencies: The new legislation will enable the fire chief to call in off-duty firefighters if, as a result of a major emergency, the fire department needs the services of more firefighters than are on duty. This change is self-explanatory and is really just a clarification of what most departments have been practising for years.

The question is sometimes raised, what is a major emergency? This is one of those hypothetical questions that cannot be answered, because what is a major emergency in one municipality is not a major emergency in another emergency. An example would be that an emergency requiring four trucks and 30 firefighters in a rural area may require two or three fire departments. In a large urban area, this may only require a second alarm, which would hardly be a major emergency.

In conclusion, like all aspects of the fire service, the size, the location and the diversity of municipalities must dictate the requirements of their individual departments. The Fire Protection and Prevention Act, 1996, does not reduce the effectiveness of the fire service. We believe that it provides us with the opportunity to enhance the services we deliver. It provides a legislative framework to enable elected municipal officials to determine the level of service they and their citizens believe is necessary and affordable.

**Mr Ramsay:** Thank you, chief, for your presentation. Maybe you could help me here because I'm getting, as we all are, different messages from different chiefs from across the province. I was wondering why a chief from Toronto, Windsor or Peterborough can come in and say that their organization with such a large fire department can work the way it is, that they don't need all this management exclusion that this bill provides, and then some like you come forward and say, "No, it's very important to have more managers." What's the difference there? Maybe the management technique?

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**Mr Clark:** Personally, I believe it's just the individual feelings of certain chiefs, much like politicians; I'm sure you all don't agree on Bill 184. We just believe, and I think the majority of fire chiefs believe, that two management personnel are insufficient to properly operate a department.

**Mr Ramsay:** When you say that, two management people, it's not as if there's just two people really managing the whole thing. It's more or less an official designation about being management or kind of worker or union, because you still have a chain of command through all the firefighters, right? You have captains and all these different levels, so there's still a chain of command running through. It's not you dictating to everybody all at once.

**Mr Clark:** As you heard from a previous speaker, and certainly any fire chief will confirm, only the fire chief and the deputy chief are able to discipline individuals. In fact, the associations are quite adamant that platoon chiefs, district chiefs, captains will not discipline any of their members because they are brothers in the same association, and this has created problems in the past.



**Mr Ramsay:** So really a question of discipline is what it's sort of boiling down to.

**Mr Clark:** And dealing with confidential material. Obviously if you have an association president who happens to be a district chief, he cannot be dealing with confidential material that might be to the association's advantage at a later date.

**The Chair:** Mr Kormos.

**Mr Kormos:** Thank you, gentlemen. I appreciate your contribution. I have no questions. Thank you kindly.

**The Chair:** Mrs Marland.

**Mrs Marland:** Do I get your time, Peter?

**The Chair:** No, that's not the way it works, but you do get three whole minutes.

**Mr Kormos:** It doesn't hurt to ask.

**Mrs Marland:** No, it doesn't hurt to ask.

Thank you very much, Chief Clark, for your presentation. From the public perspective I think there is being fuelled a concern about what a part-time firefighter would be, what kind of individual that person would be. I think the inference of the opposition to the legislation that's being developed is that there would be a different level of commitment or a different level of ability and training, and with both Chief Hare and Chief Finger, I know that no one would know better than you the kind of training, ability and commitment that is needed. I'd like you to tell us whether a part-time firefighter could be hired for the job with a different level of ability or training.

**Mr Clark:** Is that to me?

**Mrs Marland:** That's fine. I won't be political and ask my own chief.

**Mr Clark:** First of all, the legislation, when it talks firefighter, should talk personnel, because a firefighter does not have to be what most people consider a firefighter: riding a fire truck, wearing a helmet, fighting fires. Under the legislation, a firefighter could also be a communications operator, could be a fire prevention officer, could be a mechanic. So it covers the whole spectrum of personnel within a fire department.

With the new legislation coming in, once again it requires every municipality to provide fire safety education and public fire prevention programs. Many of the smaller municipalities either won't have the money to pay for a full-time employee or would not have the requirement either. If you took a municipality of perhaps 100 or 200 people, a fire prevention officer could probably handle that municipality working one day a week. So it would be a waste of not only the time but the finances of the municipality.

**Mrs Marland:** Can I just —

**The Vice-Chair (Mr Ron Johnson):** Mrs Marland, I'm sorry, but the time has expired.

**Mrs Marland:** Three minutes?

**The Vice-Chair:** You got it. I've got the watch.

On behalf of the committee, gentlemen, thank you very much for your presentation.

ANDREA YOUNKER

**The Vice-Chair:** Our next presenter is Ms Andrea Younker, please. Good afternoon.

**Ms Andrea Younker:** Good afternoon. Thank you very much for giving me the time to speak to you today

about Bill 84. I'm here speaking to you to voice my strong objections to the sections of this bill that specifically deal with privatization and the implementation of part-timers within this sector.

I have been a resident of Scarborough for over 30 years. Within the last seven and a half years I've lived in Scarborough, I've had to deal with the Scarborough fire department many, many, times.

I am the mother of twin boys who are both affected with severe cerebral palsy, chronic respiratory diseases and seizure disorders. My sons, Derick and Alex, were born at 28 weeks' gestation in 1989. That year, many of the hospital wards were shut down as a result of cutbacks from the provincial government. Because of these cutbacks, I had to be flown to Kingston to deliver the twins. After their birth, Derick and Alex needed to stay in the neonatal care unit of Kingston General Hospital for three and a half months. During that time they suffered many serious, life-threatening illnesses, cardiac arrest and aspiration pneumonias. After their release, it was not until they were a year old that I was told they suffered from bronchopulmonary dysplasia, spastic quadriplegia, cerebral palsy, extensive brain damage and blindness.

Being a young mother at the time, you cannot imagine the devastation of this diagnosis on my life. After leaving the Hospital for Sick Children that day, I had to make some major decisions. Should I maintain my children at home, giving them my loving care, or was I to give up all of my parental rights and place them for adoption? Would I keep some of my parental rights and place them in a home, or would I just walk away from everything and let the province deal with it? Boy, there were some heavy-duty decisions to make for being only 23 years old. In the end, I decided the best place for my sons would be to remain with me in a loving and stable home, provided that the essential services that the province was delivering would remain intact.

I love them. They're my sons. My gratification comes with every word they try to speak, every smile they give me and all the fight they give when they're sick. This brings me to a really sore spot in my life: what the provincial government is trying to impose with Bill 84.

Why must I continue to fight with you people to ensure that essential services are kept intact so that Derick and Alex may remain at home? I blame the provincial government for not giving me the space to have my boys in Toronto. I blame you people for my job loss and the loss of my home as a result of travelling back and forth to Kingston to see my sons.

It is about time I stood up to this province and told the government what you are doing to the life of my sons. Every time you play with legislation pertaining to services that affect my boys, you threaten to further reduce their ability to remain with me. There is no bottom line here. There are only two little lives at stake. How much more worthless do you feel Derick and Alex are to the province? Stop it.

Bill 84 is threatening the firefighters' excellent rapid response times. Bill 84 will only mean that I'll be forced to wait longer to have firefighters come and help me resuscitate my sons when they stop breathing. Minutes — seconds — are very, very important, especially in Derick's and Alex's fragile medical condition.



Bill 84 opens the door to allow full-time, fully trained firefighters to be replaced with part-timers with less training and experience. This will jeopardize the safety of the professionals and the volunteers, not to mention what could happen to Derick and Alex.

Picture this: What if Bill 84 is passed and privatization takes effect and part-timers are allowed? Is it going to be a Curly, Larry and Moe situation at 253 Catalina? This really makes me feel uncomfortable, having people work with others that they do not know. Some may have more experience and some may have less. How is Joe, the full-time professional fireman, going to know part-time Jack's weaknesses and strong points if the first time he meets him is at my house?

I don't want to be your guinea pig. We have been played by the province for too long. I want to know that if I have a fire or a medical crisis in my home, the Scarborough fire department will be there, as usual, within three minutes. I want to know that the boys, or girls for that matter, will know my situation, know where to find my boys and know that there are going to be two children who cannot walk on the lower level and two toddlers on the upper level. I want to know that I don't have to worry about Curly, Larry and Moe tripping over each other or that perhaps two of them just can't even make it to the fire. I need my comfort cushion with the fire department, and the province is trying to take it away from me and my boys.

1510

In 1989, when my boys were born, my brother had just graduated from the fire academy. He promised me that I could quite easily maintain the boys at home provided I phoned 911 when it was needed. He further guaranteed that the firefighters would be the first to arrive on the scene, within three minutes of placing the call. True to my brother's word, it has happened. These men have always been there when the boys have needed them. Sometimes when they come it may be to resuscitate, sometimes it may be to give oxygen, but they've always kept them going until the ambulance has arrived. Believe me when I say that seconds or minutes could cost my children's lives.

Please, if you have never done the job, don't try and change the rules. There are many, many other people in similar or worse situations than we are. Don't try and fix something that is working quite well.

If Bill 84 is passed, it could mean my children's lives. It may also cost your own or someone you love. If this bill becomes law without the appropriate amendments made, I can only say for the members of this government that I hope your leader can turn himself into Captain Picard and beam you up.

I thank you for giving me the opportunity to express my views and the possible outcomes of the passing of Bill 84 with regard to Derick and Alex.

**Mr Kormos:** I quite frankly can't think of anything to ask you that's going to add to what you said. Today's been a remarkable day. You, along with several other presentations by people, just people, who live in some of the communities around here and have spoken about this bill — it's impressed the heck out of me because you've obviously taken an interest in the legislation and it also

implies to me that you don't take this at all lightly. You're serious. This is not a game. That's my impression. You know what the scoop is. You've lived it and you anticipate having to continue to live it.

I can't think of any questions to ask you. All I can say is thank you kindly. You've made an incredibly effective presentation and I hope your view will prevail. God bless.

**Ms Younker:** Thank you.

**Mr Carr:** Thank you very much for a very moving presentation. As you may know, the parts of the bill that have created some problems relate to part IX, but I think there is some broad support for a lot of the other features in the bill. Most of what you seem to be talking about I think would relate to part IX, but did you have any other comments about some of the other provisions, some of the powers for the fire marshal? Are there any other parts of the bill outside of part IX that you wanted to comment on?

**Ms Younker:** I am most concerned about the sections of the bill that will directly relate to outcomes of situations such as my own and for the possible problems within the community as far as response times are concerned and possibly losing people's lives over the fact that if it does get privatized, there might be some sort of changes in response times, equipment and manpower. Those things are what directly affects the community, and that's what I am the most concerned about.

**Mr Carr:** Thank you very much. Good luck.

**Mr Ramsay:** Thank you, Ms Younker, for your presentation. You in a very eloquent manner really brought home for many of us who don't have such an ongoing experience, which you unfortunately have to have, with emergency services how important such a service is to a family with your challenges. I'd like to thank you very much for coming today and sharing that with us. It really enhances all our appreciation of the importance of firefighters and what they do and enlarges the scope of our understanding of what they do, that they're not just there to put out fires, but there are many other caring acts they provide on a daily basis. You've personalized in a way that I think is very understandable for each of us.

**Ms Younker:** Thank you very much.

**The Vice-Chair:** Ms Younker, on behalf of the committee, thank you very much for your presentation.

ERNIE WYNNE

**The Vice-Chair:** The next presenter is Mr Ernie Wynne, please. Welcome. You can begin any time.

**Mr Ernie Wynne:** Committee Chairman, members of the committee, fellow citizens of Ontario, my name is Ernie Wynne and I reside at 25 Piane Avenue in Brampton, Ontario.

I wish to thank you very much for the opportunity to present my reason for appearing before this committee and to voice my opposition to Bill 84 and provide my reasons.

First, on the evening of January 11 this year my wife, my daughter, my eight-year-old granddaughter and I had just completed our supper and were relaxing in the kitchen. Apparently during our conversation I suddenly started choking and collapsed on to the floor. After my wife tried checking what was wrong with me and



received no response from me, my daughter got on the phone and called 911 and told the operator what had happened and passed on our address.

Apparently I had choked, passed out and was unconscious. Therefore, part of the text of my problem is being related to you second hand from my wife and my daughter.

We live within a kilometre and a half of Brampton fire station number 4, a choice we made when we purchased this house and moved in two years ago. Fortunately, we had immediate response, from their emergency team on duty that night, of approximately three minutes in length. The first firemen on the scene were a pair of fully medically trained firefighters who cleared out my breathing passageway and started to apply artificial respiration. After a short period of having no success they then applied the defibrillator to me and were successful in bringing me back to life. After approximately three minutes the ambulance then arrived and the firefighters turned my care over to them. The ambulance crew immediately rushed me to Peel Memorial Hospital as I was unconscious and comatose.

Fortunately for me, we live so close to the fire station and Brampton's full-time firefighters are all trained in advanced life support and 11 of their trucks are fully equipped for an emergency such as mine, a program which was started voluntarily by our Brampton professional firefighters.

As it turned out, I remained unconscious for a total of five more days, which put my family through hell as there was always a chance of my not making it.

Due to the fast and professional action of this team of firefighters, I not only was saved from death, but also their quick action has proved to have saved me from any serious effects from my having suffered cardiac death, as the cardiologist wrote it in his report, for approximately three and a half minutes.

I was kept at Peel Memorial Hospital for two weeks of testing and care. Then I was sent on to Toronto General for another two weeks where I was further tested by the chief of the cardiac team, the chief of the respiratory team and the chief neurologist. After having numerous chest X-rays, electrocardiograms, echocardiograms, angiograms, ultrasound pictures and consultations with a battery of Brampton's and Toronto's foremost specialists, the final analysis was that I had had a cardiac arrest due to an irregular heartbeat, compounded by the stress of having lost my job three weeks previously due to the company selling out to a Calgary-based company. This was further complicated by the fact that I had choked at the last minute on my regurgitated supper.

**1520**

The result of all the tests by the doctors and the specialists was that I now have a defibrillator sown inside my chest and attached to my heart. This totally controls the irregular heartbeat and, I hope anyway, possible future cardiac arrest.

After numerous tests, the specialists have all said that my miraculous recovery was due to (1) the quick response within three minutes of the medically trained firefighters, (2) the treatment received from the staff of Peel Memorial Hospital, and (3) my fighting desire to live.

Not only have I completely recovered with only a small amount of short-term memory loss and an artificial defibrillator to assist, monitor and report the condition of my heart and its irregular ventricular heartbeat, in two and half short months I now have been able to start back to work with a new company as an accountant on a part-time basis, directed by my cardiologist, which he feels should lead up to a full-time job within three to six months.

As my medical problems are hopefully behind me, I have gone and thanked the team of firefighters and the hospital staff for their wonderful lifesaving treatment that I have received. Without each and every one of their timely and competent assistance, I unfortunately would either have been buried six feet under two months ago or, at best, I would be a human vegetable at this moment due to the damage done by an oxygen-starved brain in my head.

Having such a complete and competent medical team as the one I have been lucky enough to have been associated with during my time of need has shown me I must make sure that as many people as possible have the same opportunity to a full life as the one I have been given.

As a professional accountant, I have had to make some very critical and painful financial decisions affecting a number of families whose employment with a company going under during the depression of the 1980s was affected. Fortunately, they were assisted both by the company and by our federal government in being able to find suitable work again.

My sitting here in front of you should be sufficient knowledge that the program of training and operating our professional firefighters in the role of paramedics, I like to say, has a value that should not be sacrificed by today's fiscal restraints. My being able to be a productive citizen of Ontario and being able to sit here to voice my displeasure at the possibility of having the professional firefighting program possibly altered should be sufficient knowledge for you that the program of fully trained and competent firefighters is a very important part of any and all communities, and it needs to be supported during this period of fiscal restraints.

Every day I pick up my newspaper and read further about the medical cutbacks that are being required to maintain our standard of medical care. Please remember that medicare often translates into medical prevention, and the rapid response of our firefighting paramedics means that they do not have to just package up bodies but can assist patients with medical aid. They can play a very important role in helping not only to save lives, but also they can, through doing their job, assist members of our society in being an active part of the society rather than just a drain on the public coffers.

I thank you very much for this opportunity to express my views on the recommendations you must make to the Ontario government on Bill 84. I implore you to look beyond what possible fiscal savings might be realized by cutting back the professional firefighters' role in Bill 84. But more important is the possible savings in human lives directly and indirectly and the savings to be realized from saving potentially productive lives.

**Mr Carr:** I want to thank you for your presentation and for bringing forward your ideas and concerns of a personal nature. On behalf I think all of the committee members we really appreciate your taking the time and doing that.

**Mr Wynne:** It's my pleasure.

**Mr Ramsay:** Mr Wynne, I'd also like to thank you for your presentation. I think your story about your incident really illustrates the need to fully fund a fire-rescue department and also illustrates that firefighters provide a very broad service in our communities and need to be supported.

**Mr Wynne:** Thank you. I guess like so many of us who aren't involved in it on a day-to-day basis, you really don't realize until a time like this comes along. I've always taken my firefighters as just there. Believe me, I have a greater respect for their abilities now.

**Mr Kormos:** Mr Wynne, I've got to tell you, I've never had to call — honest — 911 in my own right. My neighbour's house caught fire two summers ago and I did call 911, but never in my own right. I suppose I've been very fortunate. The data we've been getting are, as I get older along with everybody else, the likelihood of us needing the medical emergency intervention of firefighters is going to increase, so I appreciate you and others who have come here and been very candid, because the concerns we have are things like you've talked about — part-time firefighters, the privatization of firefighting services and the devaluing of firefighters — because the new sections for arbitration will permit arbitrators to low-ball in, let's say, determining amounts of pay for firefighters. Those are real concerns and we've got to keep grinding away at them and stop this in its tracks.

**The Vice-Chair:** Mr Kormos, I'm sorry, your time has expired. Mr Wynne, thank you very much for your presentation.

#### TORONTO FIRE FIGHTERS' ASSOCIATION STEVE ELLIS

**The Vice-Chair:** The next presenter is Councillor Steve Ellis, please. Committee members may note a change in the agenda. The clerk informed me the next one would be Steve Ellis.

**Mr Mark Fitzsimmons:** Actually, I'm Mark Fitzsimmons and Steve is presenting with me.

**The Vice-Chair:** Understood. Mark Fitzsimmons and Councillor Steve Ellis then, the two of them. Good afternoon, gentlemen. You'll have 15 minutes for your presentation and you can begin any time.

**Mr Fitzsimmons:** Thank you very much for the opportunity of appearing before the committee this afternoon. My name is Mark Fitzsimmons and I'm here today as president of the Toronto Fire Fighters' Association and will be deputing on behalf of the 1,200 firefighters in the city of Toronto.

Due to the limited time allotted to this deputation, I can only briefly touch on our main concerns with the proposed legislation. I just want you to know that I would be more than pleased to meet with any of you to give you full details of what our concerns are, should you wish, after this presentation.

We believe that it is the responsibility of the government of Ontario to ensure its citizens receive proper fire and emergency services and that any legislation dealing with the fire service must contain strong provisions to protect the lives and property of its citizens. Bill 84, as written, is a contradiction of itself and of that premise.

#### 1530

It has been said, "The true meaning of a term is to be found by observing what a man does with it, not by what he says about it." I'll repeat that for you because I think it's very important: "The true meaning of a term is to be found by observing what a man does with it," and we'll say a woman as well, "not by what he or she says about it." It's the actions taken, not the words used. Our concerns with Bill 84 are not with what it says, but rather with what it doesn't say and what that silence allows.

Bill 84 does increase the level of fire prevention activity in the province. That's a positive step, no two ways about it. However, in contradiction to the premise of a fire-safe Ontario, the bill not only ignores the need for established fire suppression and emergency response criteria, but in addition encourages changes that, when implemented, will result in a downgraded fire and emergency response service in Ontario.

What I'm going to say next you've heard before. I think it's well worth repeating. To understand why it is essential to have properly staffed and properly trained fire departments, you must first understand what the firefighters in the province do on a daily basis. Firefighters don't just fight fires. Firefighters are, or should be, the first-response units to the victims of life-threatening medical situations such as heart attacks, automobile accidents, subway and rail incidents, spills of hazardous materials, building collapse, and many other situations where people need help in a hurry.

To minimize the loss of life and property in fires or any other types of emergencies we respond to, there are three critical areas that must be maintained: We must have properly staffed fire apparatus, with properly trained firefighters responding as a team, and must arrive within a critical time window to all emergencies where life, property and the environment are threatened. If any of these three critical functions are compromised, people may die needlessly.

For fire suppression, an early aggressive and offensive initial attack on a working structural fire is essential if we are to reduce loss of life and property damage. The progression of a structural fire to the point of flashover — and flashover is the point at which life in the room of origin is gone and you can't do anything for them any more — generally occurs in less than 10 minutes from the initial combustion. The most important elements in limiting fire spread and loss of human life are the quick arrival of sufficient numbers of properly trained firefighting personnel and equipment to attack and extinguish the fire as close as possible to the point of origin.

Data generated by the National Fire Protection Association, as well as studies by numerous other fire protection agencies, including the Ministry of the Solicitor General and Correctional Services and the office of the fire marshal, substantiate the fact that rapid and aggressive interior attack can substantially reduce the human and



property loss associated with structural fires. A study done by the Dallas fire department emphasizes the need for early intervention in a fire. The study shows that when rescue occurs between 12 and 15.5 minutes in a building, the survival rate is 46.6%. That rate drops to 5.5% when rescue is delayed beyond 15 minutes. Without dispute, the timely arrival of properly staffed fire apparatus is the most important factor in the successful rescue of victims and the extinguishment of fire.

Similarly, the time it takes to get to the side of a heart attack or critically injured victim and to initiate treatment is the single most important factor in the survivability of that victim. The need for a timely response by properly trained responders is not disputable when the survivability rates of heart attack victims are reviewed.

A victim of a heart attack who receives CPR and rapid external defibrillation 10 minutes after his or her heart stops beating statistically has no chance of survival. You don't need your calculators for that; they have no chance of survival. If that same person receives rapid external defibrillation within four minutes and advanced cardiac life support within eight minutes, their chance of living is increased to 34%. The previous speaker was certainly a witness to that statistic. You see, time is not only money; it is lives.

To offer part-time auxiliary firefighters as a cost-saving tool for municipalities sends out the message that it is okay to understaff fire apparatus. What is really being said when buzzwords like "efficiency staffing" and "supplemental fire personnel" are used is, "We don't know how many firefighters are coming or when they're going to get there, but by God, we balanced our budget." Firefighters must work as a team to be most effective. Part-time firefighters destroy that concept. I keep hearing about training and how part-time firefighters could be trained to the level. First of all, I don't believe that. Second, even if they were, they have to act as team.

I'll give you a sports analogy. Back in 1972 at the Canada Cup, a team of the best hockey players in the world were not successful in beating the Russian hockey team until they'd had time to work and jell as a team. They were not successful until they were a cohesive unit working together. It's the same with firefighters. If you don't work together and you don't know each other, you're not going to be as effective. Furthermore, emergency situations aren't hockey games. You don't get the best out of seven. You don't get to catch up. You have to have your best people there and your best team there the first time.

In Toronto over the last number of months we have had a number of arson fires involving garages. With our current response times and staffing, we have lost one to three garages at different fires. If we were operating under a system where we had to rely on part-time firefighters being called in, with the resulting delays in response time, we probably would have lost one to three blocks.

We realize that some communities may not have the resources to have full-time fire departments and that in these situations volunteer firefighters may be the only alternative to no protection at all. However, we believe it is the responsibility of the provincial government to

include language in this fire service legislation that encourages the development of proper full-time fire suppression capabilities across the province, rather than encourage, as seems to be the case with Bill 84, the increased use of part-time firefighters within professional fire departments which will downgrade those fire departments as a cost-saving measure.

I'd like to talk briefly about the reporting structure and accountability within the fire service and what appears to be another contradiction in Bill 84. The government has spoken at length about the need for an expanded management team, yet Bill 84 does not recognize the need for a deputy fire chief — that's a provision that was in the old act — and it just doesn't add up.

Bill 84 makes the fire chief of a municipality "ultimately responsible to the council" of that municipality for the delivery of the fire service. We agree with the premise that the fire chief must ultimately be responsible for the delivery of fire service. However, we have very grave concerns that the current trends within local municipalities to push the position of fire chief down in the reporting structure severely jeopardizes a fire chief's ability to do their job properly.

If a fire chief must report through a bureaucrat to get to council, the reality is that the fire chief will not have control, nor should he or she be held responsible for fire protection in that municipality. It will be the bean counter making the real decisions, based on the bottom line instead of on proper fire protection. The legislation must contain provisions that allow the people responsible for the delivery of fire protection services direct access to the elected officials who are ultimately responsible for the safety of those who elected them.

On privatization: I'd like to say that public fire departments are more efficient than private, for-profit fire departments and provide more service for the same dollar cost as there is no need for a profit margin. Over 90% of the fire department budgets are, by the very nature of the job, related to the cost of staffing. The only way a private, for-profit fire service can offer cost savings over a well-managed public service is by reducing the service level the public receives.

Private, for-profit fire service providers may offer an attractive bid to get their foot in the door, but the reality is that once there, they will call the shots. Once a municipality has given up their fire department to a private, they have lost control of that service. Amendments must be made to this bill that will mandate municipalities to provide fire protection services as a public service.

On labour relations: Let me say that we, as an association representing the firefighters in the city of Toronto, expect to be fairly compensated for the service we provide and to be treated fairly in matters of labour relations. For that I make no apologies. We believe that firefighter associations and fire department management should continue to work together as partners dedicated to providing the best possible fire protection in the most efficient manner.

Differences will of course arise, and when they do there needs to be a fair mechanism to deal with those differences. Bill 84, rather than foster this cooperation and partnership, sets up confrontation. It removes the



right to fairly negotiate hours of work and places many onerous requirements on firefighters, without any apparent duty for the employer to act in good faith. The bill, as written, gives an unscrupulous employer the ability to wreak havoc among their employees and the bargaining unit, and has a very arrogant attitude and an apparent distaste for the men and women who put themselves at jeopardy in service to the public.

The bill must be changed to ensure that firefighters have a right to a labour relations environment that is balanced. The arbitration process must remain free from bias and political interference, and finally, provisions must be made to restrict exclusions to the bargaining unit to senior management only. At the fire scene, chiefs, captains and firefighters all work together as a team to the benefit of the community. We don't want some political definition of a manager jeopardizing that reality.

1540

In conclusion, I would like to discuss commitments made to us by Mr Harris, then leader of the third party, prior to the last election and presented to firefighters. When asked about changes to the Fire Departments Act, Mr Harris assured us that a Harris government would make "no changes to the Fire Departments Act until such time as professional firefighters have been thoroughly consulted." Mr Harris also stated, "Any changes would be fully costed both from the point of view of management and the firefighters prior to implementation." Mr Harris further stated: "Our priority is maintaining and even improving the quality of front-line essential services. And how we do that must be determined by you, the front-line professionals, not the ivory tower politicians or bureaucrats who seem to have all the answers yet none of the solutions."

Whether consultation has taken place is very debatable. I guess that depends on whether or not an unproductive meeting is defined as consultation. The full costing has not been done, and it appears that the only people consulted have been the ivory tower bureaucrats. We expect the Harris government to remain true to its word and provide full costing, and let the front-line professionals determine how to improve front-line services, prior to the passing of this bill.

Now I will turn over to Steve Ellis.

**The Vice-Chair:** Mr Ellis, you're down to two minutes, just so you know the time frame.

**Mr Steve Ellis:** Well, I guess I'll speed-read. Good afternoon, folks, Chair. I have a letter that's been presented to you by Paul Walter, who is the president of the Metropolitan Toronto Police Association. I would have read it, but I only have two minutes, so please read it. It's a very strong letter, a very effective letter in support of the firefighters, with the police association's opposition to Bill 84. Please take time to read it.

I wanted to come before you to say that I know very little about the actual mechanics of fighting a fire. You've heard from the professionals here on how to fight fires and the impact of Bill 84 on that. I know a little bit about politics, and that's what I'm here to address.

Quite frankly, Bill 84 should categorically be amended to say that fire and emergency services will not be provided for profit. It's fundamental that the fire service

be provided on the basis of saving lives, not saving bucks. As a politician, I understand the fire department and I understand the fire service and the bureaucracy and the reporting, but I just don't understand this bill.

Simply put, Bill 84 and this talk about having a toolbox for smaller municipalities, different municipalities, to tailor the fire service to their needs — I think you should take the toolbox off the table for privatization. It should be a complete non-starter.

With respect to excluding the chiefs, deputy chiefs or different management people from the bargaining units, I don't think that's right. This is the way to —

**The Vice-Chair:** I have to stop you there. I am sorry. We run on a —

**Mr Kormos:** He can have my time, Chair.

**The Vice-Chair:** You don't have any time, Kormos.

**Mr Ellis:** One sentence?

**The Vice-Chair:** No. I'm sorry. We have to stick to the guideline of the 15-minute presentation. On behalf of the committee, thank you very much for the presentation.

TONY MINTOFF

**The Vice-Chair:** Our next presenter is Mr Tony Mintoff. Welcome, sir.

**Mr Tony Mintoff:** Thank you very much. I would first like to thank the committee for offering me the opportunity to present my personal views with respect to the fire service and in particular Bill 84.

My perspective has been forged during 22 years within the field of public fire protection. During these 22 years, I have been a member of three municipal fire departments, an active member at the executive level of both labour and management organizations, and a member of the professional standards-setting body which is dedicated to ensuring the creation of appropriate standards for the Ontario fire service. I am also currently responsible for the delivery of fire protection services, as fire chief, to a municipality of 170,000 people.

Given the amount of time available, my comments will focus on key areas of controversy which have been raised since the introduction of Bill 84. However, very briefly, I wish to say that the mandating of public education and fire prevention programs, the increase in management team size and the power of the fire marshal to monitor and review the fire protection services provided by municipalities clearly offer a very sound foundation for improved public fire safety in this province.

Much has been said about Bill 84 introducing options which would create additional risks to public safety. The opportunity to utilize part-time firefighters or to privatize the municipal fire department in part or in whole has raised many an eyebrow. It is important to understand that the existing legislation, the Fire Departments Act, does not nor has it during the past 50 years ever precluded the use of part-time firefighters or the ability to privatize a fire department. The municipalities have not exercised these options in the past and they are merely being continued in the proposed legislation.

The unions have promoted the right-to-strike issue as one where they have exercised responsible discretion and, by inclusion in their union constitution, voluntarily



waived their right to strike. If one continues this thought process, then an amendment to the union constitution, which can occur at the union's sole discretion, could empower them to strike if they so desire.

A close examination of the existing legislation does not bear out the union's explanation on this issue. The Fire Departments Act, in subsection 7(2), states, "Every agreement, decision or award remains in effect until the end of the year in which it comes into effect and thereafter remains in effect until replaced by a new agreement, decision or award." Implicit in this wording is the acknowledgment that there is never an absence of an agreement or award in effect. It logically follows that there is no opportunity for or right to strike.

Under this same act firefighters were provided with the right to binding arbitration. In terms of the balancing of interests, binding arbitration is the mechanism used to offset the inability to withhold services, or strike. Bill 84 intends to continue the union's right to the arbitration process, with some modification through the use of conciliation prior to arbitration. The approach contemplated by Bill 84 is sensible, in my opinion.

The Association of Municipalities of Ontario prefers a mutual risk arrangement, which would provide firefighters with the right to strike but remove their right to binding arbitration. I view this to be a very dangerous and ill-advised concept which could jeopardize public safety at the expiration of a collective agreement. Bill 84 merely adjusts the existing process so that it is more fair and equitable. The right to strike has no business in the emergency services delivery system.

Perhaps the most frustrating barrier to effective fire service management exists in the current legislation, which requires that only the deputy chief and fire chief be excluded from the union's bargaining unit. Given the nature of the service delivery system, being 24 hours a day, seven days a week, there is no manager on duty for well over 50% of the time which a fire department operates. How does this legislative barrier allow municipalities to ensure that the corporate and departmental goals and objectives are being pursued in an efficient and effective manner? Having the fire chief or deputy chief available on call to respond to emergencies falls well short of the need to have managers in the work place at all times. Can we realistically expect unionized employees to develop appropriate programs and procedures when failure to adhere to them would result in disciplinary action being taken against a fellow union member? I don't think so.

Prior to becoming fire service managers, many deputy chiefs and fire chiefs were very active in pursuing and supporting union perspectives. In fact, many of these individuals held senior union positions at the local, provincial and federal levels. Yet when they became managers, most experienced changing philosophies. Union leaders often relate this change in viewpoint or behaviour to the individual's lack of a value system or their inability or unwillingness to take a position contrary to that of the municipal council.

I have struggled for some time to understand the motivation behind this common attitudinal shift in managers. I have concluded that it is a systemic problem,

driven by the very management system which the unions wish to continue. Until an individual is personally exposed to the management functions within our existing delivery system, the inherent weaknesses are not readily obvious. An almost impermeable barrier is created by the very restrictive existing management structure. Changed legislation is the only effective means to remove this barrier to sound management and proper succession planning, in my opinion.

#### 1550

In my experience, many persons holding the rank of captain, district chief, platoon chief or divisional chief openly struggle with loyalty issues when faced with the prospect of exercising typical management functions. They are very often unwilling to confront performance or behaviour deficiencies when the individual involved is a fellow union member. A great deal of pressure from the union can and has been placed on individuals who have attempted to modify poor performance or behaviour of staff under their control. According to my information, no other province in Canada fails to examine the exercise of management functions, which Bill 84 intends to do, when deciding on the scope of the bargaining unit.

One only needs to recognize that the existing legislation and its imposed management framework are almost 50 years old. When comparing the complexities of today's fire and emergency services to those of decades ago, it becomes very easy to appreciate how archaic this legislative barrier to effective management really is.

The unions would have us believe that there are already enough managers in the fire service. Could it be that their position on this matter has little, if anything, to do with the effectiveness of the current management structure? After all, how many of these unionized individuals could really know of what they speak? Very few of them could have acquired the fire service management experience under the existing restrictive system which they continue to promote. Perhaps their position has very much more to do with their realization that increased management exclusions would potentially weaken their organizations, both in membership size and in financial strength through a loss of membership dues.

At the other end of the spectrum on this issue, we find some organizations, including some fire chiefs, who believe that any fire department member above the rank of firefighter first class should be automatically deemed to be exercising management functions and, therefore, be removed from the union's bargaining unit.

I believe that both positions are extreme. In contrast to these positions, Bill 84 proposes a blended approach which recognizes staff ratios through automatic exclusions. It also recognizes the diverse delivery systems utilized by full-time, composite and volunteer departments within the province and the importance of focusing on the individual's exercise of management function as the criterion to be used when deciding this issue.

The issue of defining in legislation the position of fire chief and the reporting mechanism within the municipal corporate structure for this position is of great interest to most fire chiefs. In previous corporate organizational structures, dating back to the writing of the existing legislation, all fire chiefs, as did most other department



heads, had a direct reporting relationship and, therefore, access to their municipal council. This is an extremely important link because council is responsible for establishing the levels of fire protection services which will be provided to the community. In the last decade, municipal corporate structures have changed significantly. Many fire chiefs, as do I, now report to a commissioner who in turn reports to the chief administrative officer, who in turn reports to the municipal council.

The concern, which has been expressed by many fire chiefs, is quite simple. In their opinion, the further removed from council they become in the reporting structure, the more concerned they become about maintaining their ability, and in fact their duty, to ensure that council receives all relevant information required to permit it to make informed decisions about appropriate levels of fire protection services and programs. If the fire chief is the agent of council on matters pertaining to fire protection and public safety, some access to council is appropriate.

"Ultimately" reporting to council does not require a direct line between the fire chief and the municipal council on a regular basis. However, it is my opinion that the fire chief must maintain the ability to approach council on matters of significance which threaten or impact public safety. In my case, I have access to a fire and emergency services committee of council which allows me to ensure that appropriate interaction takes place.

An effective reporting structure permits the fire chief to better assist the municipal council in making policy decisions relating to public safety. It also ensures that the appropriate practices, procedures and operational systems required to support council's wishes are implemented.

Much has been said about the lack of consultation during the process of revising and consolidating the existing fire safety legislation. Significant consultation, over many years and under many governments, has taken place. What is lacking is agreement rather than consultation. It is time to recognize that complete agreement necessary to resolve all issues in the minds of the many stakeholders will never be achieved. Not in 1997 or not in the year 2007. Changed legislation to permit increased flexibility to municipalities so that appropriate levels of public fire protection, based on flexible risk assessment models, can be achieved in an affordable manner is required now.

In order to understand the cause of the conflict between the unions and management as it relates to Bill 84, one must examine their mandates. The unions are charged with the responsibility of securing the best deal possible for their members and are struggling to maintain the many financial and organizational benefits which they have negotiated or have been awarded over the years. However, times have changed. Dwindling resource bases cry out for innovative, responsible approaches to providing public fire protection. We can no longer afford to approach the fire safety problem as we did in years gone by.

Municipalities and fire service managers, although mindful of the wellbeing of their employees, have a much larger mandate. They must focus on providing deliver-

ables, based on the needs and expectations of the public. Notwithstanding the need to treat our employees well, the fire service cannot lose sight of its primary focus on public safety.

Issues such as automatic aid agreements, changes in hours of work, operational changes in service delivery have traditionally been resisted by the unions because of the perceived impact on their membership rather than the impact on public safety. To resist these methods of improving public safety in some ways contradicts the unions' campaign banner that "Speed, experience and teamwork save lives."

I am very comfortable in saying that Bill 84 will enhance public safety in the province of Ontario by applying a balanced approach to the creation of a more flexible environment in which to manage the many challenges ahead. Rather than being concerned about their safety in the aftermath of Bill 84, I believe that the public should rejoice its enactment.

**The Vice-Chair:** Thank you, Mr Mintoff. We have under one minute per caucus, starting with the Liberal caucus.

**Mr Ramsay:** Thank you, Mr Mintoff. I'm just wondering why we have such varying opinions from chiefs across the province. You seem very concerned about the union membership in a fire department, while other chiefs seem to be able to work well with them. I was just wondering why you think there's such a broad difference of management approach by different chiefs and the relationship they have with their firefighters.

**Mr Mintoff:** Is your question, why do I think that there is a need for expanded management exclusions? Is that correct?

**Mr Ramsay:** Well, I just wanted to know —

**The Vice-Chair:** Mr Ramsay, I'm sorry. I did say under one minute per caucus. We do have to move on.

**Mr Kormos:** Mr Ramsay can have my time to get a response.

**Mr Ramsay:** What I'm getting is a very different message from different chiefs. The chief of Toronto has come before us, and Peterborough. Windsor has made a submission, and we'll hear from him directly when we go there next week. They seem to be able to manage under the present system in managing the firefighters within the organization, but you make a very strong case that it doesn't work and that you somehow need more control and more managers. I was just wondering why the difference of approach between the different chiefs.

**Mr Mintoff:** As I said in my presentation, I believe there becomes a fettering of loyalties and a conflict of loyalties when issues of job performance, whether it be disciplinary in nature or effectiveness-oriented, come between unionized members.

**Mr Carr:** As usual, there isn't enough time. One minute doesn't give us a whole lot of time other than to say, as I've done with everybody else, thank you for taking the time and doing the presentation and coming in. We appreciate the input.

**Mr Mintoff:** Thank you for the opportunity.

**The Vice-Chair:** Mr Mintoff, on behalf of the committee, thank you very much for your presentation.



1600

## SILVANA HELLIWELL

**The Vice-Chair:** The next presenter is Silvana Helliwell. Good afternoon, Mrs Helliwell. You can begin any time.

**Mrs Silvana Helliwell:** Good afternoon. My name is Silvana Helliwell. I would like to thank the committee for allowing me to speak and represent the community of Durham region as well as the disabled population of Ontario. I am a resident and a homeowner in Markham. I am married and a mother of a four-year-old son. I am also employed by Revenue Canada.

I am opposed to Bill 84. The proposals outlined in Bill 84 will make it easier for municipalities to understaff fire stations and use part-time firefighters, which in turn will increase the response time, jeopardize teamwork and reduce the high standard of fire protection that we the citizens of Ontario have known for more than 50 years under the current Fire Departments Act.

My family and I are opposed to this bill because, as a disabled person, I depend on the firefighters not only for fire protection but also for fast emergency response in many other situations. I have had horrible situations where, thank God, the firefighters came to my rescue in a very short time frame. I will elaborate on a couple of these situations.

My husband, who is not disabled, works shift work, so I am alone when he goes to work. I depend on health care aides for daily living activities, such things as personal care and upkeep of the house.

This particular day, I was getting assistance from my bed to my wheelchair when my health care aide accidentally lost grip of me and I slowly fell to the floor. I was jammed between the bed and my wheelchair, and my attendant could not get me up. I had no other resources of help in the immediate present. I was in pain and afraid my leg was broken, so I told her to call the fire department.

They arrived within minutes and took control of the situation. They checked me over for injury and got me back into my wheelchair. They recommended I be checked at the hospital. It turned out that my leg was only sprained. It would have broken if had they not arrived on time and reacted in the professional, efficient manner they did.

Part of the formula that helped make this situation have a happy ending is the fact that I know the firefighters and they know who I am. I had previously been to the fire station and introduced myself. They had documented where I lived and what my situation is. They had even been to my home and preplanned their entry and did a floor plan in case of poor visibility in my house.

Another incident occurred when my son was first born and I had gone to live with my parents for a while. Once again the fire department was informed of our situation. My brother, who is also wheelchair-bound, lives in my parents' home as well.

On this particular day, my brother and I were in the basement working on the computer when we heard a loud explosion upstairs and then the power went off. The explosion turned out to be a transformer outside, so we

were not in immediate danger, but we were informed that the transformer had gone and that the power would probably be out for most of the day, up to early evening.

We told the hydro people that there were two disabled people in the basement, but they were unable to help at that time. The elevator that takes me to the main floor has no emergency backup and no manual mode. We were trapped, which was a really scary feeling. It was like being trapped in a car wreck, with no injuries and no option but to sit and wait. However, when the power goes out at 10 am and it's now 1 pm and, as you know, nature calls, you tend to get worried.

I called the fire department. Again, they recognized our situation and were there within minutes. They carried us up from the basement and carried our 250-pound wheel chairs up for us. The power did get restored about 8 pm that day. I will never forget how courteous, professional and well informed they were.

Now that I am a taxpayer, married and a mother of a four-year-old, I am more concerned about the changes in Bill 84. The situations I have related to you today only touch upon the needs of the disabled and elderly in the communities of Ontario. We must have the highest standards maintained for our fire service. Bill 84 can only reduce the excellent levels of fire protection, emergency response and the brotherhood that currently exists within the fire service as we know it today. Bill 84 threatens that which has taken years to build.

Thank you again for listening and giving me an opportunity to speak on behalf of not only me and my family but also on behalf of my community and others in similar situations. Please don't let Bill 84 pass as written. It must be amended to ensure the continuation of the very best service possible and also to treat fairly the men and women who are all so dedicated to serve us as the firefighters of Ontario. Thank you.

**Mr Kormos:** Thank you, Ms Helliwell, for coming down to the committee. You, along with a whole lot of other people today, have made some very powerful representations to the committee, because you're talking about real-life scenarios. You've shared that with us, and I'm certainly grateful to you. I'm sure the rest of the committee is.

It was interesting because the Metro Toronto Police Association — they're going through their own amendments to their act right now, and they're not very happy about those, but they're concerned enough about what's happening to firefighters that they've made a submission to the committee as well. You're *ad idem* with them.

They say: (1) that Bill 84 makes it easier for municipalities to understaff fire stations and emergency vehicles by virtue of permitting fire departments to call in firefighters only after an emergency occurs; (2) they are very conscious of the fact that Bill 84 means that full-time, professional, trained firefighters can be replaced with part-timers, who are inevitably going to have less training and experience; (3) they express a concern of all of us, that Bill 84 opens the door to privatization.

We've heard the horror stories from the United States about for-profit corporations. Those guys are lined up at the Peace Bridge, down where I come from. The American corporate operators are lined up waiting to privatize



corrections, ambulance services — Rural/Metro, an American for-profit company, has already come into Ontario and bought six municipal ambulance services just last month — health care, firefighting, water and sewer systems.

The Metro Toronto Police Association talks about this business of management, about how Bill 84 is going to permit municipalities or any other employer, even the private sector — that's where it really comes into play, where all this ties in with the privatization — to defeat the association or the federation, whichever the case may be, by loading up on management people rather than hands-on firefighters. Of course the Metro Toronto Police Association is incredibly aware that Bill 84 is an attack on the concept of teamwork that's developed among firefighters, with their platoons and working together as full-time professional firefighters.

There we go: The ranks of opposition to this bill just grow and grow, from sources as credible as you and the Metro Toronto Police Association. Thanks for coming. I hope the government's listening.

**Mrs Marland:** Silvana, you and I met, quite a long time ago, actually. I didn't know you were married, and congratulations on your son. I can't resist that personal comment, because the very first time I met you was at a magic show in Mississauga, with our own Mississauga fire department sponsoring it, and I met you at some subsequent events, including more shows.

I've always been very impressed with the tremendous ability you have, and I appreciate, I say most sincerely on my own behalf and on behalf of the government, that you have made the effort to be here today, because the area you're pointing out, about the needs of people with disabilities in terms of any situation of crisis, be it an emergency such as a power outage, let alone a fire emergency, is a very special, defined area of emergency. I notice that Larry McPhail is with you today too, from our Mississauga department.

I know that what you're talking about in this brief, Silvana, is a very serious comment about having access to those services when you need them. I really wonder if there's anything more you wanted to say that relates to where the bill is going to deteriorate those services. The decisions about level of service are going to be made by elected people like us or elected people, as I was before, on Mississauga council, and all of us will be as accountable to you or anyone else in delivering the services quickly and accessibly. Fire protection and the emergency service example you've given are a priority in terms of human need, and no local municipal council is going to make cuts in that area, because they are directly accountable to the people.

I'm wondering if you have a real concern with the kinds of people who have been elected to municipal councils before, because I don't know of any where they wouldn't be able to make that priority decision in terms of funding.

**Mrs Helliwell:** I do have a comment. I'm involved with health care issues with myself, personally. What I'm concerned about is if this bill goes through with no amendments, because of the aging population and people like me who are now living in the mainstream — I live in my

own home. I've worked really hard, along with my husband — he's here today — to live independently, to be a taxpayer like everybody else in this room and to not have him worry when he goes to work, "If she falls out of a chair or if there is a fire or anything like that, who's going to help her?" Also, for the elderly, especially in Markham — Markham has a lot of seniors. I was in the hospital about a month ago with pneumonia. When I was in there, an elderly person came in. They were in their house for about three days until somebody found them. The fire department brought them in.

**The Vice-Chair:** Mrs Helliwell, I'm sorry; we have to move on to the next caucus.

**Mr Ramsay:** Thank you very much for making your presentation. These personal presentations are very important to us because they give us a greater understanding of the importance of the fire service and really expand on, for a person like myself, who hasn't had that much involvement with the fire service, the whole gamut of services they provide. Especially, you illustrate for an able-bodied person something I would take, depending on the season, I suppose, as being fairly inconsequential: the loss of power. But of course for you, that potentially, as it did in the case you illustrated, meant a loss of mobility, obviously an extremely important consequence to you.

It really helps us with our understanding. I'd like to make a comment that Ms Marland made. I agree: I don't think that under normal circumstances any politician would want to jeopardize any services that are delivered to people, especially at the municipal level, where they have that understanding of providing and delivering those services.

But the member for Mississauga South has to realize that times have changed. It's her own government that has put increasing pressures on the municipal level of government and therefore has to present bills such as Bill 84 that in a sense give an escape clause to municipal councils, to say, "We're going to give you the opportunity." They're saying: "Not that we're promoting privatization or many of these other things, but we're just going to lay it out for you in case you find you might be pressured. It's coming from us, the provincial government, to do these things." That's the fear, and that's why I would like to see some very strong amendments in this bill that would protect our emergency service across Ontario. I'm certainly, I'm sure with others, going to be putting those forward.

**The Vice-Chair:** Thank you, Mrs Helliwell, for your presentation.

The committee now is going to take a five-minute recess so we can set up our projector.

*The committee recessed from 1612 to 1620.*

HOLLY BENSON

DIANNE BAUER

**The Chair:** We will now proceed with the presentation by Holly Benson and Dianne Bauer.

**Ms Holly Benson:** Good afternoon. My name is Holly Benson and I appreciate having the opportunity to speak with you briefly today regarding my concerns with Bill 84.



I'm not a professional firefighter, nor am I immediately related to one nor am I employed by any fire association or organization in this province or otherwise. What I am instead is merely a private citizen whose life has been touched directly by experiences with fire and with fire professionals. I am also one of the thousands of Ontarians who understand that the safety of our families and our neighbourhoods and the stability of our commercial and corporate communities hinge on the ability of professional firefighters to do the job that we expect, and frankly, frequently take for granted of them.

I know that in a world of dramatic change and growing uncertainty it is one of those givens that my home, my family, my place of employment will be protected from the potential devastation of fire. That is one of those assumptions that allows me to sleep a little better at night.

Twice in my life that was not the case. When I was 10 or perhaps 11 I was awakened late one night by my frantic parents and rushed out to the street of our quiet neighbourhood in an older part of Mississauga. I watched in some state of shock and fascinated horror as the home next to ours was engulfed by flames. Standing in the dark night in my bare feet, clutching my mother's hand and watching the rain of sparks fall upon our rooftop, I can remember being absolutely terrified that our house would next catch fire. At ten or eleven, that stark possibility was virtually inconceivable.

It was then I became aware of the firefighters moving swiftly, efficiently and seemingly fearlessly through the night around us and I understood that they were there not only to extinguish the blaze next door, but to ensure that our small house, the centre of my world, remained safe and intact.

The fire was finally controlled and our house was saved, but I had more than just a great story for school the next day, I had one of those experiences that left an indelible impression.

Years later as a university student in Kitchener-Waterloo, I was again wakened one night by the sound of sirens and the smell of smoke, and I rose to find the adjacent side of our semi-detached house in flames. That house was uninhabited at the time, but the same fear from a dozen years earlier welled over me — my house and everything I owned was going to disappear in heat and smoke. Once again, professional firefighters were on the scene virtually immediately, and quickly and thoroughly the fire was out and my small frame home was again, thankfully, safe from the very real threat of fire.

Twice in my life people, possessions and property I cherished were saved from damage if not utter destruction by the fast response, capable actions and cool professionalism of this province's firefighters. I owe them my life and my happiness twice over, and I don't know if I've ever really thanked them, actually. But I have more than enough cause to appreciate them and their work and to have a very personal understanding of the impact they can have on individual lives like mine. Now that I have a husband, two children and my own home, I take the issue of fire protection and fire prevention in my community and across Ontario even more seriously and very personally.

Bill 84 includes a number of items that need to be addressed and revised, if not in fact omitted completely, in that they would allow for broad and inconsistent application by municipalities. These include but are not limited to guaranteeing that firefighters are required to retain full-time status, that my municipality's fire services include fire protection as an intrinsic part of the fire prevention and public education programs trio, that the teams that have saved lives and property in this province for the past 75 years so effectively continue to operate as cohesive teams and not as fragmented units of part-timers, casual staff or off-duty call-ins after the fact.

No one in this room would support a piece of legislation that gave school boards the provision of teaching children in classrooms staffed entirely by supply teachers instead of accredited educators. Personally, I wouldn't want to risk my life in an operating room led by casually employed, part-time surgeons who were perhaps a tad inexperienced.

Yet the Fire Protection and Prevention Act as it currently stands opens the doors for potentially dramatic and debilitating changes to the provision of our provincial fire services: fewer firefighters on call ready to respond to an emergency as it happens, the employment of part-time firefighters with potentially less experience and training, a possible reduction in the rapid response rate that continually saves lives in communities across Ontario — all combining to jeopardize the split-second teamwork that is the hallmark of focused, effective fire service.

Perhaps the level of exemplary service we've come to expect is simply too costly an enterprise to continue. In these leaner, and some would say meaner times, couldn't we all understand if the cities wanted to just explore part-time staff or perhaps privatization as a means of downsizing their costs a little in their operating budgets? Those managing our towns and cities will be hard pressed to keep the long-term implications and related costs of an even slightly deregulated fire service firmly in mind when sharpening their administrative pencils over plowing snow for seniors and keeping the books on the library shelves.

Do we open the Pandora's box of completely restructuring fire service, and if so, at what ultimate cost? Studies in Michigan and North Carolina have found that part-time firefighters are consistently less effective than full-time firefighters, with slower response times, disruptions in training, maintenance and fire planning, and in gaining actual hands-on experience. No amount of purported front-end tax savings will make the horrendous track records of some of the leading US private fire service companies even remotely acceptable to the unwary public, at least not after their buildings and fields begin to burn unchecked.

The citizens and civic leaders from Sun City, Phoenix, Daisy Mountain, Glendale and Cave Creek, Arizona, are all undoubtedly still paying the bills for over seven years of bungled, unaccountable, mismanaged privatized fire service. This is one American lesson we would be well advised to heed. There is another somewhere in the fact that less than one half of one percent of all fire departments in North America actually use part-time firefighters.



Why then would it make any sense to support a bill that opens up loopholes like these and risks eroding the level of fire prevention and protection we have all come to expect and in many cases personally appreciate? How many more minutes longer than the current four- to six-minute average response time will the corporate sector deem acceptable when it begins calculating the potential for damage to property for suddenly inflated insurance costs? What decrease in the percentage of successful rescues will the public actually consider an appropriate risk? Who specifically wants to be the one to hear and respond to these questions?

When my nights were twice lit by flames and filled with smoke, I know who answered the call: experienced, professionally trained, full-time, committed firefighters. I have told you about their efficiency, their speed, their thoroughness and their dedication to duty. I, as one of many who have shared their concerns with this piece of proposed legislation, believe that to jeopardize the provision of skills, equipment, training and teamwork that enable firefighters to routinely save lives and protect property is ill-advised, incautious and perhaps short-sighted.

I am speaking today to voice my fervent hope that Bill 84 will be readdressed and revisited, that the mandate and organizational structures that shape, guide and govern the status of Ontario's firefighters will be preserved and maintained, and will allow them to continue their exemplary efforts and documented achievements.

This province is blessed by a level of public fire service that is the envy of comparable operations across North America. It is one of those critical elements that consistently keep our nation and our province high, if not at the very pinnacle of international rankings of quality of life. It is quite simply what the public expects. The ability of professional firefighters to provide this service to me and to all of us is one I believe must be preserved and strengthened, not tampered with nor challenged, whatever the political or economic climate, and no matter how well intentioned.

When I asked my daughter Terri who is now eleven years old what she thinks about firefighters, she said, "They're brave because they risk their lives to go into burning buildings and places and save people they don't even know." I hope my daughter never experiences the terror and trauma that a brush with fire can bring to your life. I pray that as she grows up the cities and towns of Ontario will still be able to boast of their legacy of fire protection and fire prevention because this government will have had the wisdom to preserve those high standards for our future.

I'd like to now turn the rest of this session over to my colleague Dianne Bauer.

1630

**The Chair:** Ms Bauer, there is five minutes left, so use it accordingly.

**Ms Dianne Bauer:** I am Dianne Bauer, executive director of Waterloo Regional Heart Save. Heart Save is a community not-for-profit agency. We are dedicated to providing CPR, first aid, public education programs and developing our community's chain of survival. I have been in the prehospital emergency care education field for

more than 17 years and I'm honoured to have been an invited presenter at international symposia on emergency cardiac care in Cincinnati, Seattle, Richmond, Virginia, and Montreal on various topics including emergency system entry. I'm very pleased to have the opportunity to speak today.

I am speaking today about a concept known as the community chain of survival — I've brought some overheads to help us become a little clearer since it is coming to the end of the day — and expressing my concerns about the effects Bill 84 may have on the response time and the role that firefighters currently play in medical responses in our community.

The links of the chain: The first is early access; the second is early CPR; the third is early defibrillation; the fourth is early advanced care. They present a model which is interdependent in its links and in which the firefighters play a very important role.

Early access involves prompt recognition of an emergency and prompt entry into the emergency system. It is a citizen link. The second link represents early CPR. Although we do try to train as many citizens as possible, it's an ideal situation. The reality is that in less than 10% of the time for life-threatening situations is a bystander available to do that, so often the firefighters arriving on the scene represent the early CPR link. In our community and many like it across the province, the larger urban fire and ambulance services provide the early defibrillation link. Finally, early advanced care in communities across the province is dependent upon the communities doing their homework and getting their system in order. Those that have the other parts of the link well in order may meet the qualifications for advanced life support by paramedic personnel, so all in all, we're looking at a community system of which the firefighters are a very integral part.

If we can have a look at the diagram on the lower part of the overhead, the line across the top represents minutes ticking by in the case of an emergency response; specifically, a vital sign is absent. If you can imagine that little line down the left-hand side of the page as being zero time when breathing and pulse stop, the first particular scenario, the wiggly line there represents the electrical activity that's going on in the heart after breathing and pulse stop. The electrical activity happens for some period of time before it finally runs out and becomes what's known in the hospital TV shows as the flat line.

In the first scenario we have, someone has made the call and the first thing that happens is defibrillation at about the 10-minute mark. You can see — well, maybe you can't see — it's 0.2% survival in that instance.

The next line down represents early CPR being implemented by a bystander but defibrillation being delayed until about the 10-minute mark, and in this case I believe we have about a 2.8% chance of survival.

The third scenario shows early CPR and shows defibrillation happening more quickly, and simply moving up the time until defibrillation happens moves the survival rate to about 20%, and that's great news. Time is everything in cases of life-threatening emergencies.

In the final scenario we see the optimum chain of survival. We see early activation into the system, early



CPR, early defibrillation and early advanced life support, and the numbers at the end of that column show about a 30% chance of survival in cases where those things happen. That's wonderful news, but it's very time-dependent.

The next overhead is from another study. It's taken actually from the textbook from the American Heart Association on survival rates — sorry, this one is Mickey Eisenberg's study out of Seattle and you can see where the chain of survival is all in place, and in that particular study, they saw a 43% chance of survival. That's what I'd like for my community and my province, to see a community system that works well.

If we can go back to the very first one with the chain of survival, I think that will be a good background as I look at the critical nature of time and what firefighters do.

Although we encourage citizens to take training, firefighters are often the early CPR link. Maybe we can change that with more training. We'll certainly try hard.

Firefighters reach the emergency site to administer defibrillation often before ambulance crews, and a local study is currently showing firefighters arriving two full minutes before the ambulance personnel. When time is everything, that means a lot, and I'd hate very much to see them lose that advantage of getting there in time to provide that very important service.

When we look at that fourth link, we tend not to think of firefighters, but our community realized that because of their activities and because of their response times meeting the criteria for the Ministry of Health, we were able to get permission to go on with the Ontario advanced program through the Ministry of Health to get our paramedics. They have worked very hard to help with the criteria to have well-trained paramedics who will start their training in about two weeks for our community. They're very much indebted to the work of the local firefighters to have that done.

Fire departments throughout our region and across Ontario are also very involved in citizen training, organizing and helping with blitzes, and have responded in that way for better than a decade in most of our regions. They are very actively involved in all the chains of survival.

In summary, firefighters are an integral part of our community chain of survival. Their prompt and timely arrival not only provides access to early defibrillation, but in many situations where trained citizens are not present, they provide early CPR link as well.

The links in any community's chain of survival are interdependent. Just as the effective functioning of all of the links in the chain provide the best possible chance of survival for victims of life-threatening medical emergencies, the failure of any one of those links to promptly execute their role jeopardizes the chance of survival for people in life-threatening medical situations.

I trust that the hearings will give serious consideration to the important role of firefighters that play a very integral part in the community chain of survival, well beyond what we traditionally think of as the firefighting role.

Thank you very much for the opportunity to speak.

**The Chair:** Thank you both for your presentation here today.

**Mr Kormos:** On a point of order, Mr Chair: We heard earlier about the issue of response time when it comes to fires and how crucial it is with respect to fires and being able to extricate people and/or suppress a fire. Today we heard about response time when it comes to lifesaving tactics or approaches.

There's a reference to studies in Michigan and North Carolina that, according to Ms Benson's submission, reported that part-time firefighters are consistently less effective, among other things, with respect to response times. I would ask that the Chair instruct that the research staff obtain that. I think it's important that this material be filed with the committee, it having been referred to. These are just incredibly persuasive arguments about part-timers and —

**The Chair:** Excuse me, Mr Kormos, are you requesting information from our staff? Which studies were those?

**Ms Benson:** I'm sure the original documentation can be provided to the committee.

**The Chair:** Could you provide it to the committee?

**Ms Benson:** I'm sure we can do that, yes.

**The Chair:** We certainly would appreciate that. Could the Clerk have your card? We thank you very much for that. That will prove valuable to all of us.

**Mr Kormos:** Further, I would ask that legislative research follow up and perhaps investigate even further as to the availability of similar studies. Europe, I'm sure, has had some experience with it as well, perhaps even places like New Zealand which have undergone these types of exercises.

1640

#### SCARBOROUGH PROFESSIONAL FIRE FIGHTERS ASSOCIATION

**The Chair:** Our next presentation will be made by the Scarborough Professional Fire Fighters Association, Mr Barry Papaleo. Welcome.

**Mr Barry Papaleo:** My name is Barry Papaleo and I'm the president of the Scarborough Professional Fire Fighters Association. Seated beside me is Bob McWhinnie, who is a member of our association.

Although I don't want to use up much of my valuable time rebutting or challenging the comments made by one of the previous speakers, the former chief of the Scarborough fire department, I would, however, point out that the current fire chief has been in the position for nine years and addressed this committee earlier today. He never expressed the types of problems offered by the former chief. Perhaps the problems he has alleged to have experienced back then had more to do with the particular management style.

I would like to thank the committee for this opportunity to address you today with regard to our concerns about Bill 84 as it is presently proposed.

The Scarborough Professional Fire Fighters Association is made up of 496 professional firefighters who serve the citizens of the city of Scarborough. Our association has represented firefighters for some 58 years and during that time we have managed to secure, through the free collective bargaining process, working conditions and a



compensation package that afford our members decent, but not excessive, wages as well as a degree of dignity in their workplace. These hard-won benefits are important to our members. It has taken years to acquire them and they will not be relinquished without resistance.

We believe Bill 84, especially part IX, "Firefighters: Employment and Labour Relations," is fundamentally flawed. It not only jeopardizes public safety, it also adversely affects the collective agreements and intrinsic rights of professional firefighters in the city of Scarborough, and indeed across the province of Ontario.

While the present Fire Departments Act is clear, concise and understandable, part IX of this proposed legislation is legalistic, fuzzy and often unintelligible. We have yet to find anyone who fully understands it.

At this point I would like to take the committee to a number of specific areas of the bill that the Scarborough firefighters have the most concern about.

Hours of work, sections 43 and 53: Firefighters in the city of Scarborough and in most other municipalities in the province continue to work a 42-hour workweek on a 10-hour day and 14-hour night shift. In Scarborough we have been successful in negotiating a four-day week consisting of a 42-hour week for our day workers. Those are the people in fire prevention, training and the mechanical divisions. Any forced alteration to our present working hours will have a detrimental impact on our members who have, for years, patterned their lives around the reality of their shifts.

Section 52, entitled "Scope of bargaining," excludes hours of work as a bargaining issue and invokes section 43, which allows fire departments to unilaterally impose any system of hours of work so long as it does not require firefighters to be on duty for more than 48 hours in an average workweek. Surely, any reasonable person would agree that this section is regressive in the extreme and simply not acceptable or conducive to harmonious labour relations. In fact, we believe it may be illegal.

Negotiating hours of work is a basic bargaining right enjoyed, to our knowledge, by all other bargaining agents in Ontario. We must question why firefighters have been singled out with such a draconian clause.

Privatization/part-time firefighters, section 41: The changes in the definition of an employer and a firefighter in the above section will, without a doubt, lead municipalities to consider the privatization of their fire departments as well as the introduction of part-time firefighters into Ontario's fire and emergency services.

Like police protection, fire safety is too important to be left to the private sector. The private sector does many things well, but fire protection is not one of them. The myth of privatization is that it will make the fire service more efficient and will save the taxpayers money. Yet, as we have seen in the United States, the results have been service deterioration and unsatisfied customers.

The driving factor behind a privatized fire department is to make money for the company providing the service. It is propelled by the profit motive and bottom-line economics. Fire and emergency medical services are public services that should be provided for the public good, and accessible to all citizens, regardless of economic status. The possible privatization of the fire service has no place

in the province of Ontario and will, if implemented, put our citizens and communities at great risk.

Part-time firefighters cannot possibly be as well trained as full-time firefighters. Their use will encourage municipalities to understaff fire stations and rely on a call-back system when an emergency occurs. It is universally accepted that properly staffed vehicles with fully trained and experienced firefighters are essential if fires are to be extinguished and lifesaving rescue is to be successful. The first few minutes are the most critical in both fire and medical emergencies.

Bill 84 allows municipalities to play Russian roulette with public safety and undermines the commitment to full staff. Privatization, part-timers and the call-in provisions allowed in Bill 84 will encourage municipalities to let staffing fall to a dangerous level. Firefighters will be brought in only after an emergency occurs. This will lead to slower response times and an inescapable increase in property damage and lost lives, not to mention the enhanced safety risks to the professional firefighters on the scene. If Bill 84 was really about public safety, a commitment to mandatory well-staffed fire trucks would have gone a long way to ensuring this goal.

Bargaining unit exclusions, sections 41(2) and 58(1) and (2): Under the existing Fire Departments Act only the fire chief and the deputy fire chief positions are excluded from the bargaining unit. When the fire chiefs demand more exclusions to enable them to perform their duties, it should be remembered that there is in the city of Scarborough, as in most municipalities, a bureaucracy with excellent human resource capabilities, as well as a number of employees at the fire department headquarters to aid and buttress the fire chiefs in their administrative obligations.

This committee should also know that over the past few years many municipalities have chosen not to replace their deputy chiefs when the occasion arises. If they fail to restore the managers they are presently entitled to, how can they in good conscience argue that they need more managers? The massive management exclusions allowed under Bill 84 will add more bureaucrats and take firefighters off front lines where they are needed the most. Effective firefighting relies heavily on the team concept to adequately and safely perform our duties.

Firefighters and officers who regularly attend the fire scene are part of the team and should remain part of the bargaining unit. In Scarborough this would include district chiefs, who are consistently present at the emergency scene fulfilling their role as the incident commanders. These senior and experienced firefighters should remain part of the team.

Section 58 authorizes the employer to assign an unlimited number of persons as managers. This can be appealed to the labour relations board, but until the appeal is heard any firefighter so designated remains outside of the bargaining unit. Subsection 4 allows the employer to revoke designations at any time. In addition, up to five firefighters may be designated as managers with absolutely no recourse to any body. Even the fire marshal recommended that after a certain number any further exclusions should be subject to negotiations and/or arbitration.



In the city of Scarborough it has been implied that upon the passage of Bill 84 at least 17 senior officers will be taken out of the Local 626 bargaining unit. This would not be simple additions needed for more efficient management; it would be blatant union-busting. At the very least the bill should allow for the number of exclusions to be determined by the size of the fire department.

Without some finality over who will be in and who will be out of the bargaining unit, confrontations will never cease and lengthy and costly legal battles over exclusions are assured. This section of Bill 84 invites endless conflicts and adversarial labour relations in the fire service, which is to the detriment of the citizens, the professional firefighters and the municipalities themselves.

**Successor rights:** There is nothing in Bill 84 that deals with successor rights for firefighters who may be amalgamated with other jurisdictions. Thus, any reorganization of the fire service could reduce the current standards and collective agreements with the stroke of a pen. Especially now, those of us who are employed by municipalities in Metropolitan Toronto must be guaranteed successor rights to our jobs.

Firefighters deserve to know and be consulted on this and other issues. When major reforms like those proposed in part IX of Bill 84, not to mention the megacity bill, are tabled, the views of the firefighters should be genuinely solicited and seriously considered.

**General comments:** Much has been, and will be, made of the consultation process that has led to Bill 84. Premier Harris promised the firefighters in the province of Ontario, "No changes will be made under a Harris government until such time as your members have been thoroughly consulted and we will insist that all changes be fully costed, both from the point of view of workers as well as management." This promised consultation has not taken place and the firefighters have yet to see any costings with regard to Bill 84.

1650

Our association has closely followed the deliberations of the Fire Departments Act review committee during the time of its existence and was surprised and disappointed to find that a number of issues that were never discussed have managed to find their way into Bill 84. Included among these issues are privatization; part-time firefighters; certification/decertification of our locals; involvement of the labour relations board; removal of the firefighters' rights to negotiate hours of work; the massive exclusions allowed under Bill 84; mandatory conciliation where firefighters must pay the cost.

It would seem to me that for real and meaningful consultation to have taken place, the finished product must bear some resemblance to what was actually discussed during the so-called consultation process. Part IX of Bill 84 replicates very little of the reported discussions and agreements that were reached at the Fire Departments Act review committee meetings. Thus with Bill 84 we have gone from the relative clarity of the present Fire Departments Act to the incomprehensible murkiness of part IX.

The Scarborough Professional Fire Fighters Association is today urging the committee to listen to the professional firefighters, both men and women, who ride the fire trucks and deal on a daily basis with the consequences of

fires, medical calls and a host of other emergencies. They know that for the most part the process is not broken. In fact, the citizens of Ontario enjoy one of the best fire and emergency response systems in the world. There is always room for improvement, but part IX of the bill is a giant step backward.

Part IX will make firefighting more dangerous for our members as well as for the public at large. This is regrettable since a new Fire Departments Act could have made a positive difference for firefighters and the citizens of the province. The Scarborough Professional Fire Fighters Association, like others in the fire service, welcome Bill 84's commitment to mandatory fire prevention and public education. I am not here today asking this committee to do away with Bill 84. However, the professional fire fighters in the city of Scarborough do maintain that part IX should be rescinded by this committee or amended to address the real concerns being put forth by the public and the firefighters.

There is still time to get it right. The stakeholders should be reconvened along with the Solicitor General in a serious effort to arrive at a consensus on a new part IX. The committee should strike a real blow for public safety and tell the government that part IX of Bill 84 has some serious problems. It is not reasoned and thoughtful legislation whether examined from the point of view of the citizens of Ontario or the professional firefighters who serve them. However well intentioned the bill is, it will impact negatively on public and firefighter safety.

We believe that firefighters have a special relationship with the citizens in the province. Public satisfaction with the service we provide has consistently shown up at the top of any surveys that have been done. Firefighters have responded to this vote of confidence by taking a real interest in their communities. In Scarborough alone, we have raised over a quarter of a million dollars to equip the Scarborough General Hospital burn unit. At this time of year, the firehalls in Scarborough are busy with people dropping off bags of food for the Daily Bread Food Bank. Many of them bring their children to meet the firefighters, see the fire trucks and tour the station.

To date, our firefighters in Scarborough have collected over 12,000 signatures on a petition from people who agree with us. This is no mean feat. It represents a very significant number of ordinary citizens who believe Bill 84 threatens their safety.

The professional firefighters in the city of Scarborough urge the standing committee not to encourage the use of part-time firefighters or private fire departments. Don't promote a call-in system that will leave fire stations permanently understaffed; don't add a new level of bureaucracy to the fire departments by allowing the extensive exclusions allowed under Bill 84; finally, do not pass a bill that takes a labour relations process that has been responsible for years and years of uninterrupted quality service to the citizens of Ontario and replace it with one that promises nothing but ongoing confrontation and litigation between firefighters and their employers.

In closing, let me thank you for your attention. You have a difficult but important job. Bill 84 requires extensive revisions to make it workable to firefighters and



beneficial to the citizens of Ontario. This is your challenge. Thank you.

**The Chair:** I thank you very much for your presentation. The time has elapsed.

I was wondering if it would be of any value to request that our researcher provide for us any constitution or obligations of firefighters to each other, pursuant to the professional organizations. I am interested because there's been some reference to that and I was wondering what that might play in judgments they make. Would anybody have any objection to receiving that information?

**Mrs Marland:** No. I think, Mr Chair, it would be interesting. It would be valuable to us.

**The Chair:** I'm just curious.

**Mrs Marland:** Yes, I think it would be valuable to us.

**The Chair:** Fine. If they would provide that.

#### ONTARIO MUNICIPAL FIRE PREVENTION OFFICERS' ASSOCIATION

**The Chair:** Our last submission is the Ontario Municipal Fire Prevention Officers' Association, Roy Chalk. Welcome.

**Mr Roy Chalk:** Mr Chairman, I'm Roy Chalk and this is Bob Webb. Mr Webb is going to do the presentation this afternoon.

**Mr Robert Webb:** The Ontario Municipal Fire Prevention Officers' Association, representing over 500 fire prevention officers from 220 fire departments in Ontario, welcomes the opportunity to address you today on the fire prevention aspects of Bill 84.

Our members include full-time, composite and volunteer officers from all regions of the province, and our goal is to prevent the loss of life and property through fire prevention education and the enforcement of the Ontario fire code. As an organization that is interested in fire prevention, investigation and public safety, it is our intention to only discuss those areas of the bill.

We as an organization support the fire prevention aspects of Bill 84 because we believe that fire prevention must be a vital part of every community within the province. We firmly believe the prevention sections of this legislation will result in an improvement in the quality of life for every resident.

Each year needless deaths occur because people did not know what to do or had failed to ensure their life safety equipment, such as smoke alarms, was operating properly. We believe the passing of this bill will reduce this needless annual toll in lives and property in Ontario. We believe this will be accomplished through the efforts of an empowered fire service serving the community with fire and life safety education programs and code enforcement, as mandated by this bill.

The following are our comments and concerns on Bill 84.

Part II, "Responsibility for Fire Protection Services," subsection 2(7), review of municipal fire services: The fire marshal may monitor and review fire protection services. Does this mean the fire marshal will set a minimum standard of fire and life safety in Ontario, or will it be monitored on a municipality-to-municipality

basis? If so, how will it be standardized throughout the province?

The review function of fire protection is currently being carried out to a large extent by the Fire Underwriters Survey. Does this mean the fire marshal will operate jointly with this organization?

Section 5, fire departments: We believe the fire prevention division is an integral part of the fire protection services. This section appears to allow segregation of suppression from prevention. We believe suppression services must include a proactive prevention component by working more closely with the residents in their communities through the development and delivery of essential lifesaving and fire prevention programs. We believe this legislation should require that all fire departments deliver both suppression and prevention services because the fire service is properly looked upon as experts by the citizens they serve and the public at large.  
**1700**

Subsection 6(6), delegation: The current act does not allow for delegation of power of the fire chief. The proposed legislation allows these powers to be delegated to "any firefighter or group of firefighters." We believe these powers may be delegated, but only to persons suitable to be designated as assistants to the fire marshal as set out in the proposed legislation, section 11.

Part IV, "Fire Code," section 12: This section should contain a reference to installers and maintainers of fire safety systems and equipment. The present situation is that fire safety equipment is prescribed in various legislation; however, the quality of the installation and maintenance is questionable at best. According to a report by Factory Mutual, life safety systems may have up to a 30% failure rate in emergency situations. We believe essential emergency systems have to be installed and maintained by licensed, qualified and accountable tradespeople.

Section 12(4), buildings under construction: We agree that there should be provisions to permit the use of the fire code in certain situations. However, we believe the way this section is written may result in a conflict with the Ontario Building Code Act, particularly in circumstances where an unsafe condition may exist. A possibility may arise that an order from the Building Code Act or this legislation could be issued by two different municipal officials for the same condition.

Subsection 12(5), municipal bylaw prevails: Our question is, why would this section be written into the bill without a concerted effort from both the office of the fire marshal and this government to enact a number of amendments to the fire code submitted by the fire service and other stakeholders over many years? To maintain consistency in the province, it is imperative that this government enact these amendments and limit the municipalities' powers to pass bylaws with respect to fire and life safety. For example, many municipalities have passed bylaws for the installation and maintenance of smoke alarms, storage and handling of flammable and combustible liquids, and fire access routes. These bylaws are not consistent throughout the province.

Part V, "Right of Entry in Emergencies and Fire Investigations," section 13: As noted in our comments on



subsection 6(6), persons having rights of entry for the above tasks must be appointed by the fire chief. If they are not the members of the fire prevention division, community safety officers or other members of the fire department, they may not be able to carry out their duties. However, if they were assigned designations as assistants to the fire marshal, there would be no problem with these persons carrying out their duties as fire prevention officers and community safety officers.

Part VI, "Inspections," section 22, limitation on orders relating to structural repairs: As the present building stock continues to age, we believe this section may limit the adoption of new technology and lifesaving systems as they are developed. The mere fact that a building complied with a code when built does not mean the life safety endeavours of an inspector should be limited by outdated technology. We are suggesting that the door be left open to ensure the residents of Ontario are provided with improvements in life safety which may originate through improvements in technology or through coroners' inquest recommendations.

Part VIII, "Recovery of Costs," sections 35 to 40: As the province continues to download responsibilities to the municipality, there must be provisions in this legislation to have all fines levied for convictions under the fire code and this act be recoverable by the municipality. This would return much-needed revenues for improvement of fire prevention programs in each community. The government must also recognize that unfunded enforcement may cause municipalities to reduce enforcement of the fire code if fine revenue is not made available to municipalities to offset the costs of legal services and staff associated with prosecuting these violations.

Conclusion: Our 500 members' sole purpose is to prevent fires, through the application of fire prevention programs and enforcement of the fire code, from touching the lives of people and businesses in Ontario. We know only too well the human tragedy that occurs over and over again. This legislation focuses attention on the need for fire prevention to become a part of the residents' everyday life in our province, and for this we are glad to support those aspects of the bill.

In addition to these comments, we have added some other material in our package that may be of use to the committee in their deliberations. Included are copies of the Ontario Municipal Fire Prevention Officers' Association position paper on a code for existing buildings, and a discussion paper with respect to enforcement of the Ontario fire code and associated jurisdictional issues.

Also included are eight resolutions passed by our members at general meetings on matters related to fire and life safety issues. A review of this material will, we hope, assist the individual members in understanding the background and results of the various aspects of the proposed legislation.

On behalf of the executive and members of the Ontario Municipal Fire Prevention Officers' Association, I would ask the government to take our concerns into consideration so the citizens of our province may be afforded the best protection possible. We look forward to working with the legislation when it is finalized and enacted with input from stakeholders like ourselves.

**Mr Ron Johnson:** Thank you both for your presentation. We had a presentation yesterday from the fire marshal which indicated that of course the majority of fires can be prevented through behavioral change, and to cross-reference that against the part of this piece of legislation which calls for mandatory fire prevention and public education programs in municipalities, I want to get your thoughts on that. Just give me some input on what you think about the province's initiative with respect to that.

As well, just a brief comment with respect to the revenue going to municipalities: I believe that's a good suggestion and it's something the committee should seriously consider.

**Mr Webb:** Maybe my colleague Mr Chalk would like to answer this.

**Mr Chalk:** We believe the fire marshal of Ontario is definitely on the right route with the fire prevention initiatives they are pushing. That's why our association is behind the fire prevention aspects of Bill 84. We currently are enjoying fire prevention activities to a level we've never achieved before in this province. We applaud the government for its proposals to make it mandatory. Some of the states in the US have mandatory fire safety education in the school system. These are things that maybe in the future we would look at in the province, to continue to improve it.

On the other part of your question, about the revenue going back to the municipalities, we feel it has to go back to the people who are actually doing the work so that the efforts can continue.

**Mr Ron Johnson:** It's a good suggestion. Thank you.

**Mr Ramsay:** Thank you very much for a very substantial presentation with some very constructive ideas for amendments on an area of the bill that's very important but quite frankly doesn't get all the attention because of some other very controversial areas of the bill.

Like Mr Johnson, I think the idea that the municipality should be able to retain the revenues from fire enforcement is an excellent idea that would help fund a very valuable activity at the local level. That is, as we've been pointing out over the last couple of days and included by you, a very important activity, and I think that's an excellent idea.

**Mr Webb:** The biggest difficulty we have in the fire service, fire prevention, is trying to fund the public education portion of this. Due to all the cutbacks with budgets in municipalities, it makes it very difficult. I know with our budget we have \$1,000 to try and print material to go out to the public. It makes it very difficult without private input as well.

**Mr Kormos:** I am interested in particular in your comments about section 5, the seeming division between fire prevention and fire suppression which is suggested by section 5 and reinforced, I'd say, by section 2 in the way that section 2, although to everybody's pleasure, makes it mandatory that municipalities develop public education programs with respect to fire safety and fire prevention programs. It then omits fire suppression and goes on to talk about the balance of "fire protection services as it determines may be necessary."

It's very weird drafting, quite frankly. It's just weird, because it implies things that the government may not want to imply. Quite frankly, it implies that now fire suppression is discretionary, whereas fire prevention and fire safety programs are not. I'm not quarrelling with the fact that they're not discretionary, but when you read that and then you read section 5 — I want to make sure I understand. Your argument is that all these things have to happen at the same time by the same team of people, that it's got to be a coordinated effort.

**Mr Webb:** That's right.

**Mr Kormos:** You can't isolate this stuff.

**Mr Webb:** No, not at all. In fact, it's a team effort that the fire suppression division supports the fire prevention division. When they're out doing inspections and

also when they're fighting fires, they're noticing fire prevention matters that they can correct onsite while they're there. But they also support the fire prevention division in public education and going around and doing commercial and home inspections, which is an integral part of the fire service.

**Mr Kormos:** Thank you kindly for your submission.

**The Chair:** Gentlemen, I compliment you on your submission here today. Thank you very much.

This hearing will be adjourned to the Valhalla Inn, ballroom 1, Thunder Bay, Ontario, at 11:30 am —

**Interjection:** 12 noon.

**The Chair:** Sorry, 12 noon rather than 11:30, so you can sleep in.

*The committee adjourned at 1712.*





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Hon Janet Ecker (Durham West / -Ouest PC)

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First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 9 April 1997

# Journal des débats (Hansard)

Mercredi 9 avril 1997

## Standing committee on administration of justice

Fire Protection and  
Prevention Act, 1996

## Comité permanent de l'administration de la justice

Loi de 1996 sur la prévention  
et la protection contre l'incendie



Chair: Gerry Martiniuk  
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LEGISLATIVE ASSEMBLY OF ONTARIO  
STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Wednesday 9 April 1997

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO  
COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Mercredi 9 avril 1997

*The committee met at 1201 in the Valhalla Inn, Thunder Bay.*

FIRE PROTECTION AND  
PREVENTION ACT, 1996

LOI DE 1996 SUR LA PRÉVENTION  
ET LA PROTECTION CONTRE L'INCENDIE

Consideration of Bill 84, An Act to promote Fire Prevention and Public Safety in Ontario and to amend and repeal certain other Acts relating to Fire Services / Projet de loi 84, Loi visant à promouvoir la prévention des incendies et la sécurité publique en Ontario et modifiant ou abrogeant certaines autres lois relatives aux services de lutte contre les incendies.

**The Chair (Mr Gerry Martiniuk):** Good afternoon, ladies and gentlemen and members of the committee. This is a continuation of the hearings of the standing committee on administration of justice considering of Bill 84. On behalf of the committee, we are most pleased to once again be in the great city of Thunder Bay, enjoying the hospitality of your city. The committee welcomes Mr Bisson, member for Cochrane South, who is serving on the committee instead of another third party member.

**Mr Gilles Bisson (Cochrane South):** We could mention his name is Peter Kormos, the member for Welland-Thorold.

**The Chair:** Okay.

**Mr Bisson:** Yay. Oh sorry. I can't be partisan here.

**The Chair:** The only other thing I should mention — I'm sure there isn't a need but I have an obligation as Chairman of the committee — is that demonstrations in the galleries are not permitted, pursuant to the standing orders of the Legislature. We can now proceed.

FORT FRANCES PROFESSIONAL  
FIRE FIGHTERS ASSOCIATION

**The Chair:** I'm pleased to announce that our first presentation will be made by the Fort Frances Professional Fire Fighters Association, Mr Frank Sheppard.

**Mr Bisson:** Chair, as the deputant is making his way up, I wonder if I could just for a second explain to people that normally on committee you would see more MPPs here, but as you can see, there is one opposition member from the Liberal Party, Mr Ramsay from Timiskaming, and myself from Cochrane South, and fewer government members than normal. I think you'll understand why. As we speak there is a filibuster still happening in the House on Bill 103, so many of the members are still in Toronto trying to hold the government accountable on Bill 103. On behalf of those mem-

bers who can't be here, I would like to extend their apologies for not being here, but understand why they're not, that they're at the Legislature today.

**Mr Ron Johnson (Brantford):** Mr Chair, just a brief point that I'd like to make: I know that Mr Bisson understands that filibuster is costing the taxpayers \$10,000 per hour.

**The Chair:** Excuse me, that's not a point of order.

**Mr David Ramsay (Timiskaming):** And that's not true at all.

**The Chair:** Let's not deal with that subject. We have our hands full with this particular bill so let's proceed.

Welcome, Mr Sheppard. We have allotted 15 minutes for your presentation including any questions and I'd ask you to proceed.

**Mr Frank Sheppard:** I'll certainly try not to create a filibuster here.

**Mr Bisson:** Chair, could we have a copy of the gentleman's presentation. I have others but not his.

**Mr Sheppard:** I'm sorry, sir, I did not bring one down. I'll certainly make it available to you.

**Mr Bisson:** Thank you.

**Mr Sheppard:** Good morning, ladies and gentlemen. My name is Frank Sheppard, as you know. I'd like to thank you for the opportunity to speak before this hearing. I'm speaking on behalf of the Fort Frances Professional Fire Fighters Association, of which I've been a member for 11 years. I'm also an owner of a marine construction company. We employ five full-time people and 12 part-time staff, depending on the time of season.

I have to say that I absolutely wholeheartedly support portions of this bill as well as other parts of legislation that the present government has put forward. Positive moves, such as mandating the requirement for fire prevention and education, can only improve the quality of public safety. You must be congratulated for that.

At the same time, recognition has to be given to the areas of legislation which place the public in peril. To suggest that full-time staff can be replaced by either part-time or voluntary staff is foolhardy at best and negligent at worst.

I'd like to draw your attention to a survey of 41 fire departments. This is an independent survey that was done in the northwest region by the Thunder Bay District Health Council. It surveyed 238 full-time, 44 part-time and 766 volunteer firefighters in this region. Basically, 22% of the services felt that they were understaffed, and all of the services that did were made up of voluntary workers.

To bring an example of that, less than half of the people who are firefighters in this area have mandatory



CPR and first aid certification; 43% actually are trained in CPR and 51% are trained in first aid. It should be noted as well that all full-time staff maintain that level of standard.

It has become an accepted standard that firefighters are going to be able to help if it's needed. I don't want to diminish the intent or the actions of part-time firefighters or volunteer firefighters, but it just has to be recognized that the opportunities for the training and the actions that take place within the capability and the amount of time that's required are just not available. As a result, as I said, half of the departments in this area are unable to provide even that basic level of service.

To talk about additional resources, all of them indicated that significant improvements would be made in response times by improving staff numbers and also by increasing the training values. Some of the reasons that the respondents listed for not being able to maintain these training levels and not being able to go to off-road calls as an example were personnel, equipment and resources, a lack of manpower or time. A lot of them believe that we're only a volunteer department and that we are a fire department and the only things we really do are auto extrication and extinguishment of fires.

That's long since ceased to be a fact. Nobody recognizes that as a reality any more. Fire departments respond to an absolute myriad of situations: Hazmat, public education — that's in this bill — and the prevention portion; high-angle rescue, water rescue, I could go on and on.

I'm not suggest that people have any less desire because they do it on a voluntary basis. I'm just suggesting to you that they don't have the time and they don't have the commitment. It's not going to be a very effective system if you put any legislation in place which diminishes the ability for people to react and respond in this manner.

Tiered response: In our area here, 50% of the fire departments have a capability of tiered response. Yet the ones that don't, the volunteers — and these are their impressions and their feelings, not mine — feel that they are presently overtaxed timewise. I had to throw that one in there. Certainly the equipment and training is also a problem. As I said, it is not even my impression; this is an independent study that was done, and I'll certainly to happy to make that available to you.

For the government to suggest that changing the already existing staffing levels would possibly be a benefit and not put the public in peril is very irresponsible on its part.

A lot of the standards of action and a lot of the things that we get used to doing in this province come from the initiatives that begin in these larger serviced areas with full-time firefighters and professional staff. What happens is that the actions and the information trickle down to the rest of us, whether it be a composite department or a volunteer department.

Thunder Bay, as an example, presently is doing an automatic defibrillation program where they go and assist and do initial response to heart attack victims. It's certainly going to become even more relevant than it is today with the reductions that they have in health care.

## 1210

The centres that have the well-trained and equipped staff set the expected standard and the rest of the departments in the area gain immense benefits from any full-time professional staff that are willing to make themselves available to us. To suggest that you're going to get that same level if you reduce those staffing requirements and allow an influx of part-time personnel into those positions certainly is never going to be a benefit. I guess to support to the point that I'm trying to make, we have a large number of both volunteer firefighters and volunteer chiefs who have signed petitions that I have with me today who would certainly also believe the same fact.

One of the other portions that I wanted to talk about briefly was the collective bargaining portion of Bill 84. I believe that when the present government was elected they were elected on the basis of reduction of bureaucracy and maintaining present service levels, and that's a goal to be commended by anyone. It's hard to argue. I just fail to see how removing front-line firefighters out of the bargaining unit and placing them into midlevel management jobs is necessarily going to foster a positive response.

I certainly don't see how leaving a well-recognized opening for privatization is going to benefit anyone in this province. If nothing else, some of the lessons that have been learned by the private fire companies in the United States should be well recognized here. The province and the municipalities really do not have a labour problem with firefighters and I am just amazed that the present government, in part IX, is attempting to create problems.

You have an option: You could leave things as the status quo. The system is working. It has worked for a number of years. The evidence of no strikes, no problems that way — yes, there have been some arbitration hearings, but for the most part all of the municipalities negotiate with a reasonable degree of fairness with their employees. I certainly don't treat my own employees this way, nor do I believe that my current employer, being the town of Fort Frances, would treat me in the same fashion that you're allowing within this bill.

Further to that, our council members actually signed our petition and have sent out the association cards that also indicate the support for our concerns with this bill. Nobody wants to see the protection level reduced, because we already have some problems with it.

Growth in efficiency has to come from an environment of cooperation. To create punitive action and put out legislation that's only going to create antagonism does absolutely nothing to help the ability for the citizens of Ontario to receive a good service. As I said, with the additional costs, even the municipalities, and certainly our associations, will be feeling the brunt of the additional conciliation requirements.

This committee has the power to recommend amendments and you people have the ability to turn Bill 84 into a very solid piece of legislation. I have to tell you, from somebody who really loves his job — otherwise I'd be working in my own business and not doing this — and on behalf of the people of my region, I have to ask you

to reconsider some of them and to give some very serious thought to making the changes that have to be made.

I am going to thank you for all the commitment and hard work, and I am certainly willing to answer some questions if you have some for me.

**Mr Ramsay:** Thank you, Mr Sheppard. First of all, about some amendments, I am certainly going to be bringing an amendment that would prevent municipalities from privatizing their fire services. One Conservative member was on the record yesterday as saying he is against that, so I hope, if I can do my job and convince some others, maybe we could get that through.

I allude to that as really giving the councils kind of a loaded gun. Many of the people here have said municipalities aren't going to do that. Then why is the Harris government giving this loaded gun to the municipalities but saying, "Don't fire it"? I think we should just make sure it doesn't get loaded in the first place; that is, put an amendment here to prevent the privatization of fire services. That's certainly my intent, and I hope we'll get some of the government members to support that also.

**Mr Sheppard:** I would thank you if you would. It would be a very positive amendment that would go a long way to solving a lot of the problems that most of our associations and a lot of the residents I speak to, certainly in our area, have. One thing that is a strong belief is that nobody wants privatization here. The system isn't that bad.

**Mr Bisson:** Thank you very much for your presentation, Frank. This whole notion of changing the bargaining relationship by moving things into the OLRA: In your opinion, why is the government doing this? As you say, there hasn't been a problem in bargaining, no strikes in some 75 years. Things have been going fairly well. What's your idea of why the government is all of a sudden deciding they've got to change how you guys are certified and the whole bargaining relationship with your employers?

**Mr Sheppard:** We've been waiting for about 50 years for changes to this legislation. I honestly believe it may not even be with malice aforethought, but I think in a lot of cases legislation that's hurried, without consultation to the associations and the people you work with, creates the problems.

**Mr Bisson:** The second part, flowing from that: Prior to the last election, even during the election, there was a pledge and a promise by Mike Harris that there would be consultation with the firefighters, that you guys would be plugged into the process and guaranteed that you're part of this legislation. Are you feeling that commitment is being followed?

**Mr Sheppard:** No, not at all. As I said, that's probably one of the reasons you're seeing these hearings and probably one of the reasons you're seeing some of the problems in the Legislature right now. I honestly think a cooperative move is far better to maintain some kind of reasonable solution to a problem. If there's a problem with the legislation, let's fix it.

**Mr Ron Johnson:** Thank you very much for your presentation, sir. I want to focus a little on your concerns with respect to part-time firefighters, who aren't currently defined in legislation but will be after this bill passes. To

give an example, right now we've got somewhere around 20,000 volunteer firefighters working in the province who are trained to a certain standard. If part-timers, as defined in this legislation, will be trained to the same standards as full-time or their volunteer counterparts, would that satisfy your concerns?

**Mr Sheppard:** It would, as long as the training is not established in its present format. I am a trainer within the current OFM system, and a lot of the training standards are established on a sugar-coated basis. We're putting paper out there that says people are trained, but the actual physical and consistent ability to respond to an incident is not there.

What we're doing is we're creating a paper trail that's saying we're doing it, but we're not necessarily doing it. I work with volunteer departments in our area as well, and I really believe that's a fact. I think if you had volunteer people who are involved in the system right now, they would have a lot of the same answers.

**The Chair:** Could I just ask, what's the composition of the Fort Frances —

**Mr Sheppard:** We have 12 full-time firefighters and we have 20 part-time.

**The Chair:** And no volunteers?

**Mr Sheppard:** They're considered volunteers, but they're actually paid a wage so we consider them part-time. They're an absolutely integral part of what we do.

**The Chair:** I really appreciate your attending this morning. Thank you very much.

**Mr Ron Johnson:** As a request for more information with respect to the part-time, could I ask the ministry to give the committee some information with respect to those in Ontario who are volunteer firefighters currently operating part-time, how they are compensated and the various models used, so we could cross-reference that against the part-time proposal we have in the legislation.

**The Chair:** That's a request for the ministry. It will be accommodated? Thank you.

1220

JOLEENE KEMP

**The Chair:** Our next presenter is Joleene Kemp. Good morning and welcome.

**Mrs Joleene Kemp:** Thank you very much and good day to you. My name is Joleene Kemp and I would like to thank you for the opportunity of presenting my concerns with respect to Bill 84.

I have worked with the firefighters primarily in two areas: When I was a teacher with the Lakehead separate system, firefighters were coming into the school looking after fire prevention; and most recently, when I wear another hat, I've had the pleasure of working with them as a volunteer in the community with the Thunder Bay annual Christmas Cheer drive.

Personally, we've had involvement with firefighters on two very separate occasions, and I think it sets a context for the comments I'm about to make. Number one, my father was in an accident, and if it weren't for the firefighters and their jaws of life, he wouldn't be alive today. Second, one of the superintendents in our system lives in a rural area that is not presently serviced by full-



time firefighters. It is serviced by volunteer firefighters. The home in which he was living was totally destroyed because the response time was so slow. It's not disrespect for the volunteers, but it's simply to have them come together, and at that particular time it was very slow. Within one week of that fire there was another fire where another employee in our system, who lives in the city, was serviced by the fire department. Her house was on fire in a similar nature, yet her house was saved because the response time was considerably less and there was a full team ready to go.

In my written and oral presentation today I have chosen to list the major areas of Bill 84 which I find most distressing. I normally am very quiet when it comes to anything the government is doing, but I am particularly concerned by what I perceive to be the direction this government is heading. A solicitor with whom I frequently work always begins discussions of issues by asking the question, "What's the mischief?" I find myself asking the same question with all the government's present pieces of proposed legislation.

In placing each of the most recent pieces of legislation on chart paper, because I am a visual learner, it has for me become very clear that the perceived intent of the government is to decentralize, to privatize, to fragment and to download; to appear to be doing, by placing dollars from one area into another, the exchange of dollars usually occurring from an area whose clients have little voice to one whose recipients appear to be initially pleased.

The reality to date in all cases is that no new dollars are available for actual reinvestment. Those who have had a bad experience are now in a position of what one would say power, so it's their turn to do as they might wish. Those who are the weakest and the most vulnerable, those with whom we deal on a daily basis, are being further humbled.

Bill 84, the Fire Protection and Prevention Act, is an omnibus act that combines some 13 fire-related pieces of legislation into one. From a politician's perspective, one would think this is a very good thing because one is streamlining and supposedly eliminating duplication and needless red tape. But is that really the case? As one begins to look more closely at the proposed legislation, one discovers significant gaps and potential problem areas. Being a layperson, not involved in firefighting at all and simply looking at the pieces of legislation, that's the context within which I make my remarks.

The new act makes provisions for mandatory fire prevention and fire education programs — excellent, first-rate, what is needed. However, the costs of these mandatory programs have been left to municipal governments to fund. Municipalities like the one I live in, Thunder Bay, whose councillors are, according to the media and according to sitting at council meetings, grappling with escalating costs due to provincial downloading, aging buildings, a stagnant population — Thunder Bay is showing no real new growth — and no new real investments within the community, a community whose taxpayers are themselves indicating an unwillingness and an inability to pay more, are going to be placed in the proverbial catch-22 situation.

It would most likely be very easy for municipal governments, unfortunately, to allocate moneys that are for fire suppression to date over to fire prevention, thus cutting back on emergency capabilities, and then laying the blame at the provincial level.

Other danger areas being proposed by the Ontario government include the privatization of fire services. Private enterprise will be permitted to submit lowest-tender bids to deliver fire protection to the residents of Ontario. This system has proven to be ineffective and inefficient in the United States, where only one half of 1% of fire services are in the private sector. The bottom-line concerns of a corporation should not have any bearing on the level of fire protection a citizen enjoys.

Specifically, the new definition of an employer in section 41 of the act invites the privatization of fire departments. It would put at risk one of the best fire and emergency services in North America. It threatens to dismantle the excellent emergency services that the citizens have come to expect and should be able to have.

The new definition of a firefighter in section 41 will inevitably lead to less-qualified part-time firefighters. This is clearly a cost-saving measure and will jeopardize public safety. Fire and emergency services are not a part-time occupation. Studies in the United States, specifically Michigan and North Carolina, have shown that part-time firefighters are less effective than full-time ones because firefighters tied up in other activities are slower to respond to alarms. The absence of firefighters from the station between fires interferes with training, maintenance and fire planning. Part-time firefighters have a hard time getting adequate experience. The abovementioned came right off the Internet and was found by some secondary students in one of our high schools when they were doing an investigation with regard to career training.

Certification procedures will also lead to various problems. Fractured representation for firefighters which involves a variety of collective bargaining approaches will become a labour relations nightmare. There is no need to superimpose a procedure for determining representation where representation has never been a problem and indeed where collective bargaining can occur in the absence of a formal trade union or association affiliation or membership.

Section 52 appears to eliminate the long-standing right to negotiate hours of work. It also has the potential to roll back or limit firefighter pension benefits. This section appears to be regressive in the extreme and to set labour relations back decades.

The bargaining unit exclusions are open-ended, ambiguous and far exceed anything that apparently has been discussed at the fire departments' annual review committee or other provincial meetings with the Solicitor General.

In section 53(5), what exactly are the costs of conciliation? Are the costs of the parties' legal counsel included?

Many references are made to regulations. Without knowledge of the content, any adoption of the legislation is like putting the cart before the horse. As a politician, you would hate to believe things are going to occur and



then be disappointed when the actual regulations are not what you had anticipated.

In section 54(3) the arbitrator appears to have too much control over time periods. This could then pose a problem for both the parties at the table. We in education see arbitrators very often, and when an arbitrator decides that he or she is going to take a walk and determine what will take place next, it makes it very difficult for both parties.

In section 54(15), what are "one half of the costs of the arbitration"? What does that equate to? Why is this placed in this particular piece of legislation but it's not found in any other piece currently in place or proposed in the particular allocation mentioned in the firefighters' one?

Under the present Fire Departments Act, Bill 84 is ambiguous and open to various interpretations, which will undoubtedly lead to confusion and an adversarial system of labour relations. This will most likely lead to grievances, court challenges and resentment rather than the present highly successful and cooperative labour-management process that seems to have been taking place.

In the "Operation of Collective Agreements" section, it would appear that collective agreements in this area will terminate and the terms and conditions of employment will cease operating. Do the firefighters cease working at that particular point? Existing legislation has served the citizens of Ontario well by providing for the continued operation of collective agreements through periods of dispute over wages and working conditions and during periods of internal disputes over particular association memberships and affiliations.

Under the existing legislation as it relates to labour relations matters, there has never been an opportunity for nor has there ever been a threat of interruption in the quality and delivery of fire service to the citizens of Ontario's communities. Why, then, would anyone introduce changes that may alter this unprecedented level of comfort for Ontario residents and taxpayers? Matters as important to the parties as the process of appointing arbitrators and conciliators should not be left to the regulations. The process should be put up front and subject to the scrutiny and criticism of the interested parties. We still are presently operating under the notion of a real democracy.

1230

Many firefighters could be turned into midlevel managers. The government has stated that an increased number of managers is essential to enhance fire protection for the residents of Ontario. However, this particular process would appear to be at odds with the general trend in both the public and private sectors, where middle manager positions have been eliminated or substantially reduced.

Municipal governments concerned more with the bottom line than public safety, because of the changes taking place so rapidly at their level, will staff their fire departments with a minimum of full-time personnel. The new legislation permits the municipal government to reduce the level of staff on duty, because fire departments will have enhanced abilities to call firefighters back to duty or to call upon part-time employee staff to attend the

scene of an emergency. There are no second chances or instant replays in the fire service. When at the scene of any emergency, correct actions must be taken in a timely fashion. To be forced to wait for sufficient staff to arrive slows down the process and worsens the problem.

When all the abovementioned concerns are combined, the teamwork aspect of firefighting is placed in jeopardy. Having confidence in the abilities and knowledge of your partners allows professional firefighters to enter hazardous situations to assist those people whom they are hired to protect.

Professional firefighters have called for mandatory fire protection and for minimum staffing levels for apparatus, both of which would dramatically improve fire safety in the province. Coroners' juries in Ontario have recommended mandatory sprinklers in nursing homes, minimum firefighting staffing levels and minimum response capabilities. None of these improvements seems to have been addressed in Bill 84, an act that purports to enhance fire safety in the province.

In conclusion, speed, experience and teamwork make the difference, because in an emergency you do not get a second chance. In another life I belong to the funeral association, so I know those second chances are very few and far between.

Study after study has shown that the key factors in an emergency situation are rapid response time, fully staffed emergency vehicles and effective teamwork. Until now, Ontario's professional firefighters have been meeting the challenge: Emergency response time is four to six minutes on average, over 40,000 resuscitations occur each year and over 22,000 fires are put out each year. That creates a first-rate safety record every year.

The government says it is concerned about safety, but it ignored dozens of recommendations from panels and coroners' juries that would have improved public safety.

Fighting fires is a tough job but it's only part of the job. According to the latest statistics, about 60% of a firefighter's work is in non-related emergencies, which is to our credit, one would hope. But those types of situations include auto extrications; medical emergencies; defibrillations; high-angle rescues; hazardous material spills; ice water rescues, that now occur very frequently in Thunder Bay; gas leak explosions; broken power lines; and confined-space entries.

It truly takes a full-time professional firefighter four years to gain the skills and experience needed to be a first-class firefighter ready for any emergency. I would ask that you please rethink the proposals in Bill 84 and then go forward with change. Change is important, but do so, so that it is for the betterment of all those concerned. Thank you very much.

**The Chair:** Thank you. We have two minutes per caucus.

**Mr Bisson:** Thank you very much for your presentation and for taking the time to come to this committee. Far too often, people don't realize the importance of taking the time to come out to our committees and say how they feel so we, hopefully, can get legislation to a much better level.

I want to come to the whole concept of team, because that's something that maybe needs to be spoken to for the



record as we go through this legislation and look at what amendments need to be brought forward. I'm not sure, in looking at this legislation, that there's really an understanding that when you have a group of firefighters training together, working together, spending long periods of time together, as happens, the whole sort of esprit de team is built and how important that is to safety of the public and the safety of the firefighters themselves when it comes to entering a building. I wonder if you can speak to that a little bit for the record.

**Mrs Kemp:** Just what I've witnessed: It's like when you do exercises where you're building trust. If you can't trust the person you are going fall back on and know they are going to catch you because they are capable of catching you, then you really are in jeopardy. With firefighters, if you cannot trust that the person who is at the bottom of the ladder is going to ensure that ladder is still there, or that if you need assistance with additional movement of a particular hose, whatever the case may be, because you're not sure if that person has the proper credentials and criteria, then you become —

**Mr Bisson:** It's second-guessing.

**Mrs Kemp:** You would be second-guessing. Second-guessing takes seconds and that could endanger the life of a person who's trapped in a particular situation.

**Mr Bisson:** It brings me to the next question, which is introducing this whole concept where the hours of work are spelled out in legislation rather than left at the bargaining table. My first, immediate reaction when I looked at it — and I sat down with firefighters in Timmins; people came to that whole thing — was that if you're able to establish the hours and utilize part-timers, it sort of breaks up that thing. Do you think that's what they're trying to accomplish by that introduction? Should it be left in the legislation or put in the bargaining unit?

**Mrs Kemp:** I believe that if you put it in the bargaining unit you allow the people who are directly affected to determine what is in the best interests. As well, if people are part of the solution, they will tend to do a better job, rather than creating more of a problem if they're left outside. Bargaining allows that.

**Mr Bisson:** This is a good question for you.

**The Chair:** I'm sorry, you're already 30 seconds over.

**Mrs Margaret Marland (Mississauga South):** What I wanted to ask you about is the aspect of teamwork. Having sat in on the committee yesterday, we heard very similar arguments — in fact very similar text to your presentation — about teamwork. The concerns that are expressed I find difficult to understand. I wondered if you could elaborate on it because the majority of firefighting in the province is done by part-time firefighters now, I understand. If you count all the numbers in the rural communities, the people who depend on part-time firefighters and volunteer firefighters, you wouldn't want to suggest that they care any less and don't develop teamwork and the support system on the job, would you?

**Mrs Kemp:** What I would want to say is that if we are looking at what's in the best interests of all people, perhaps you can come up with a model where there is equity, where all people are full-time because when you're full-time at something then your focus is there and you don't have alternative focuses that you're coming to.

**Mrs Marland:** Is there evidence to prove that in the rural communities the firefighting is a different standard of teamwork and caring and support for each other?

**Mrs Kemp:** The personal experience that we in our local board office have gone through would demonstrate that where there is a part-time department in the rural area of Thunder Bay, specifically in Shuniah, because it's part-time, because the response time was longer, an individual lost their home. The same situation, the same type of fire to the nth degree, unfortunately, occurred where there were full-time firefighters. The response time was quicker because everyone was there, everyone was ready and everyone was in place and everyone knew their job. You're not looking in a derogatory manner at those people who are part-time; they did the best they could, but they were not all focused immediately on their task because that was not their first job or their first line of defence.

1240

**Mr Ramsay:** I'd like to continue along that line of questioning because some people maybe like to pussyfoot around this business. Margaret seems to want to pretend that volunteers, who are great people — and I live in a rural area, so I helped actually get the rural fire department going on a volunteer basis — are somehow as good as a professional fire department. Margaret, they're not. There's no way we could have a volunteer fire department in Thunder Bay or Toronto or any major urban centre. There's no way in these urban centres we could have part-timers doing most of the work. That's just not the case. In urban centres with dense population, for sure, you need a professional full-time fire department.

As you have pointed out, this bill now gives the opportunity for municipalities to start to bring in more part-timers. Part-timers have other jobs. As you've said in your presentation, they cannot be as up to speed as a full-time professional who, while they're at the firehall, can do retraining, can do pre-fire planning, all the different, various work of a firefighter.

I don't know why the Tory members seem to think many of the towns — and I live in one in my township — do very well with volunteers. That's all we can afford. My neighbour's a quarter of a mile away from me. It's a whole different situation. But to say that a volunteer fire department would work well in Thunder Bay or Sudbury or North Bay or Sault Ste Marie or even the bigger centres in southern Ontario is just wrong.

I think that's the point you've made and I don't know why people are afraid to say it. They do their very best, they do their training a couple of nights a week, but there's no way they can be up to speed as much as somebody devoted to it full-time. That's the reality and we shouldn't shy away from saying that.

**The Chair:** Mrs Kemp, thank you for assisting us here today.

#### THUNDER BAY COALITION AGAINST POVERTY

**The Chair:** Our next presentation is the Thunder Bay Coalition Against Poverty: Christine Mather, accompanied by Beulah Besharah. Welcome.



**Ms Christine Mather:** Good morning, everybody. Thank you for the opportunity to present this morning. My name is Christine Mather and I am the coordinator of the Thunder Bay Coalition Against Poverty. This is Beulah Besharah, our board president.

The Thunder Bay Coalition Against Poverty is a grass-roots organization of people concerned about the depth and extent of poverty in our community. We believe that people with low incomes find it difficult to have their opinions come to the ears of politicians. Their voice is not heard. It is one of our primary goals, therefore, to bring that voice to such hearings as these. We believe that we are well able to represent the poor. Approximately 80% of our members are on some form of social assistance as are 75% of our board of directors. In addition, we operate a food bank at which we supply food to between 250 and 350 people every two weeks.

At this point I would like to emphasize that our presentation today is an opportunity for the members of this committee to hear from poor people. I'd like to tell you somewhat about the process that we used to produce the briefs that we present. We do consult, we caucus with low-income people. We go to our food bank and we talk to them about what we should be saying. "This is what the legislation says." I believe this is a unique opportunity for the members of this committee to hear the voices of poor people.

Our concerns with Bill 84 fall into four main categories: labour relations, public safety, the bill's effects on low-income people and concerns with the process used to arrive at Bill 84 and bring it into law.

The first section is labour relations. Low-income people are concerned about labour relations. Contrary to much of the pronouncements of this government and much of the poor-bashing in the media, low-income people are very concerned about joining the workforce. They realize that it is in their interests that employment standards and labour relations be protected.

Since election there has been a clear campaign on the part of this government to weaken the collective bargaining rights of workers and to undermine the strength of unions generally. Bill 84 continues this trend. We have eight specific points to make under this heading. We chose the ones that we thought were most important.

(1) Section 41(2) of Bill 84 states that firefighters who carry out managerial functions or who are "employed in a confidential capacity in matters relating to labour relations" will be excluded from the bargaining unit. This will allow for considerable reductions in the size of bargaining units and a concomitant weakening of the firefighters association.

(2) The bill does allow for appeals to firefighters being removed from the bargaining unit to be heard by the labour relations board. However, section 58(3) provides a formula for use by an employer to calculate the number of workers who can be designated as managers based on the total number of workers in the department. We read the bill to state that no challenges are allowable to workers being so designated through the use of the formula. The employer has "sole discretion."

(3) If it is necessary for management positions other than those currently in existence to be created, new

positions should be designed based on consultations with the professional association.

(4) Bill 84 prevents strikes by firefighters. Publications of the government have referred to this provision, section 42, as "clarifying the issue." However, this is in fact a brand-new stipulation as the previous legislation was silent on the issue. Given that the constitution of the Ontario Professional Fire Fighters Association already prohibits strikes, as do most of the collective agreements negotiated by firefighters, we cannot help wondering if the government has included a no-strike clause because it realizes that Bill 84 will hurt firefighters and they are therefore anticipating and preventing any resultant workplace action.

(5) The bill legislates employment conditions generally arrived at through the collective bargaining process.

(6) The bill allows for the termination of a firefighter upon only seven days' notice, whether or not the termination is for cause. Quite simply, this is draconian and a step backwards from the terms of the majority of collective agreements. The situation for probationary firefighters is worse as they are denied even the right to an independent review of the termination.

(7) Bill 84 adds another layer to the collective bargaining process for firefighters through the mandatory conciliation process — this from a government which has as a stated aim the reduction of bureaucracy.

(8) We are opposed in principle to any legislation which requires a labour arbitrator to take into account "the employer's ability to pay in light of its fiscal situation." Section 54(7) of this bill contains such a provision. We would suggest an amendment to the bill requiring the arbitrator to take into account the employees' need for an increase in pay. Paragraph 3 also states that the arbitrator must take into account "the economic situation in Ontario." Does this imply that if the province can't afford qualified firefighters we shouldn't have any?

The next section we'd like to deal with is public safety. We have three specific points to make under this heading.

(1) Bill 84 introduces a new category of firefighter, the part-time firefighter. Our understanding of the way things work now is that firefighters function together in teams of qualified members. These teams develop a cohesive way of working together. Weakening these teams through the introduction of part-time workers will endanger firefighters and the communities they serve.

(2) There is the potential under this legislation for municipal councils to understaff firehalls by relying on the call-in of part-time firefighters. Response times under such conditions would be affected, and in such a geographically stretched-out community as Thunder Bay this is of serious concern.

(3) Section 41 of Bill 84 defines an employer as "a municipality, person or organization that employs firefighters." This clearly opens the way for the privatization of fire services. Although the privatization of public services is a clear part of this government's agenda, it is not the will of the people the government was elected to serve.

There is a profound incompatibility between the provision of a public service and the profit motive. Example



after example is available of how privatization has led to a decrease in service and an increase in costs and the introduction of user fees. In the case of fire services, privatization will also lead to a decrease in public safety. We note with alarm that the US company which has recently bought ambulance services in southern Ontario, Rural/Metro, is the same company which has a disastrous record in the provision of fire services in the US.

The next section is concerned with Bill 84's effects on low-income people. The majority of the legislation passed during this government's term of office has favoured the wealthy and harmed ordinary Ontarians. The Ontarians who have been consistently harmed the most have been low-income people. They have seen their incomes slashed by 22%, their chance to receive a higher education reduced, their health concerns ignored, services slashed and their dignity eroded through a concerted and vicious campaign of poor-bashing. Bill 84 continues this trend.

We have three specific points to make under this heading.

(1) Privatization leads to increased taxes and user fees. Increased taxes and user fees hit hardest on the poor. User fees for public services are a form of regressive taxation whereby wealth is redistributed from the poor to the wealthy.

(2) Professional fire services with quick response times are particularly vital to the safety of poor people because many of them live in substandard housing. "Firetraps" is not too strong a word to use to describe some of the homes we have visited.

(3) A survey we carried out at our food bank showed that more than 60% of the people had to move to a cheaper home during the last 12 months, and for "cheaper" you can read less safe.

The final section is concerned with the process of introducing Bill 84. Our primary concern about the process used to arrive at Bill 84 is that there has been a lack of consultation with the professional firefighters association. It would seem to us that the government and our society would benefit from the expertise of those most intimately involved with the provision of fire services.

In summation, Bill 84 will weaken the professional association, introduce privatization and decrease public safety. One of the things we attempt to do through our coalition is to help poor people understand politics. We begin by explaining the structure and different levels of government in Canada, and then talk about how to understand legislation or policies. One of the questions we encourage people to ask is, "Who benefits from this legislation?" So let's ask that question about Bill 84. You guys can pretend you're poor and I'll pretend this is one of my focus groups, okay?

Does this legislation benefit firefighters? No, we don't believe so, and neither do the firefighters. Does it benefit society? No, it allows for reductions in both the quantity and quality of fire services. Does it benefit low-income people? No, it reduces their safety and allows for privatization, which will increase costs.

Who does Bill 84 benefit? We believe the answer is clear: It benefits the corporate sector, which will be allowed to purchase fire departments that we have paid for and thereby make a profit from reducing public

safety. We believe that is what this bill is all about. Thank you.

**The Chair:** Thank you very much for your presentation here today. Your time has elapsed, so we'll proceed.

We are now in a position of adjourning to 2 o'clock sharp this afternoon so we can get started.

*The committee recessed from 1253 to 1406.*

#### DOUGLAS TENNANT

**The Chair:** We shall proceed with the first presentation, a Mr Douglas Tennant. Welcome, Mr Tennant.

**Mr Douglas Tennant:** Thank you, Mr Chair and members of the committee. I appreciate being afforded the opportunity to make this presentation today. I'd just like to give a short introduction of myself. I'm currently employed as a full-time fire chief in the province of Ontario. I have approximately 18 years of fire service experience. I have an overlap of volunteer firefighting and full-time firefighting in Ontario.

I currently also serve, for a second term now, on the Ontario Association of Fire Chiefs, but I'm here today to present my views and my presentation on Bill 84 as a private citizen, based on my previously outlined experience and my review of the proposed legislation.

Bill 84, as I have read the material presented around the province on it, focuses primarily on public safety, and I think that is paramount in this bill. There has been a lot of information presented here today, and I can imagine elsewhere, about full-time firefighters and the need to address their concerns, and those are valid and quite appropriate in these hearings.

But I would today like to present a focus on something that you may not have had a lot of information on, and that is from a rural-urban interface: small towns, villages, townships in the rural parts of Ontario, which encroach even in some cases on to the larger urban areas, such as down into the Metro area. Sometimes the volunteers, as I've heard today in other presentations, are talked about, and I thought it necessary to come and present some information and attempt to do it in a balanced format.

Bill 84 addresses mandatory fire prevention and public safety education with regard to fire matters. This is an immense benefit to everyone in the province. It not only helps the firefighters, full-time, part-time, volunteer or otherwise, but it truly does affect each and every individual in the province. I think that speaks volumes with regard to fire safety, and I urge the committee to continue their focus on the public fire safety aspect of Bill 84.

Bill 84 outlines, with respect to volunteers and how it could affect them, standards, certification and training, and I urge the committee to consider recommending, however they can, a quick and thorough implementation of legislated firefighter training centres. There are already many good standards available for firefighters right up through to the fire chief. They are currently used by hundreds of fire departments in Ontario, and they have been and will continue to be of great benefit to the public as firefighters reach a common level of training throughout the province.

The provisions in Bill 84 for automatic aid will improve, in my opinion, a very good service provided by volunteer and composite fire departments in Ontario and



will improve ever more by perhaps having a seamless coverage of fire and emergency services throughout the province. That's very important, an automatic aid provision. I would like to see that continued and remain in the bill.

Again, training, I mentioned earlier: reinforcement of the office of the fire marshal and its commitment through the Ontario Fire College in Gravenhurst, the outward- and forward-facing issues of training for volunteers and composite firefighters, full-time, especially in the areas of wild fire. The Forest Fires Prevention Act is becoming more important to rural areas and up in this area. Merchantable timber has to be protected and, if other fire services are not available, I think it's very important that the volunteers and composite firefighters who will be providing that training get the desired and requisite training. I think this act will see to that and I'm very encouraged about that.

Code enforcement will allow a more defined and assured outline to volunteers who are currently, many hundreds and thousands of them, out doing code enforcement in the province, doing wood stove inspections, making sure that the fires that could start are prevented. There's nothing more apropos in this legislation than saying that an ounce of prevention is worth a pound of cure. More and better training and the moral support that the dedication of this bill will bring to volunteer inspectors and composite inspectors is worth the hundreds of thousands of dollars that fire trucks cost, more stations and more salaries for more people and the more support in code enforcement that the volunteers can receive I believe is very important, especially in the rural areas.

I would like to see, if possible, the committee consider making an amendment or including in the legislation a requirement for a mandatory smoke alarm in every family dwelling in Ontario. Currently it is provided in new construction, but I believe firmly that this bill is an opportunity, a window, to see that some kind of fire prevention aspect is made with regard to smoke alarms in every home in Ontario. Right now, it is not mandated in every home, just in new construction under the building code. There are some municipal bylaws that address it, but this act is a window of opportunity to address that.

Just to reiterate, I think it's important to see if you can get quick movement on having the minister or whoever will ultimately be empowered to make regulations with regard to firefighter training. We've heard presentations that there may be the concept that there is a differing level of training. This is a very adequate, although minimum, level of training and a standard that is available in Ontario, and I think that it's very apropos that Ontario take the opportunity to put into legislation mandated training and standards. That would be a real good thing, and again of benefit to the public.

The local option idea: Communities with their local elected officials being able to look at their needs in their communities, whether Metro Toronto or South Porcupine or Dryden or Thunder Bay or wherever — I think the elected officials have a very good tool in Bill 84 to continue with the flexibility allotted to them to ensure that their citizens are protected to the needs that their risk management requires.

There are many competent volunteer departments and, obviously, thousands of full-time firefighters who do just an excellent job in Ontario, and in their urban areas they do a truly remarkable and sometimes a thankless job, and I think everyone, unfortunately, at some time takes them for granted. I just wanted to make sure that the volunteer service, of whom there are 20,000 volunteers/part-time in Ontario, also get the recognition they deserve. They too are putting their lives on the line getting up for sometimes little or no pay and, in some cases, receiving fairly good compensation packages, but again their dedication and commitment to the communities that they serve, under their risk needs, are truly commendable.

But none of these smaller, rural and fire emergency services are put in place by happenstance. It's still a partnership between the fire chiefs and the administration of the local communities and the elected officials who sit down and bring a well-defined package that is locally suited to their needs. I think Bill 84 must continue with that flexibility and that reinforcement to the municipalities that they can set the level of service for their local community.

Part IX of the act is obviously something that is causing a lot of concern for the full-time firefighters, and I'm aware that even the firefighters association of Ontario has provided some support at the volunteer level for their full-time firefighters that they serve along with. I question the sudden reversal in the FFAO's position but it's something that they, as an organization, have made, and I would encourage the committee to ask some questions as to why that support has waned a little bit.

The part IX portion I would like to speak on deals with the management exclusion aspects of Bill 84. I support the management exclusion component in the legislation as proposed and I would like to explore, just for a moment, the fact that if a definition does come out indicating that perhaps thousands of volunteers could be defined as part-time firefighters, there would be an opportunity to certify as union members thousands more firefighters in Ontario.

Many volunteer departments that currently are served by a chief and a deputy with volunteers could end up having hundreds of unionized firefighters. I feel Bill 84 addresses that future possibility by allowing for management exclusions, to help manage in this potentially new unionized environment.

The commitment and dedication of the tens of thousands of volunteers throughout Ontario, I believe, will be enhanced by all of the provisions that are currently outlined in Bill 84. I would like to say that the fire fatalities have dropped in Ontario by something like 60%, according to the office of the fire marshal, and I believe it's through the dedication of all of the firefighters, and I mean all of them, full-time, volunteer and composite, who are protecting the citizens. They do a marvellous job and, because of that, we do have a very impressive fire service record. I believe Bill 84 will provide an even better prevention tool towards increasing and enhancing public safety.

Bill 84 also will still allow the flexibility for local elected officials, the people at the local level, to determine their needs and to set in place their levels of



service. I'd ask you to consider the suggestions I have about smoke alarms and training standards.

Thank you again for allowing me to make a presentation here today.

**The Chair:** Thank you, Mr Tennant. The committee welcomes Lyn McLeod, member for Fort William. We have a little over a minute per caucus and we start off with the opposition.

**Mr Ramsay:** Thank you very much, Mr Tennant, for your presentation. I agree with you. I think most of this legislation is really excellent, especially in the areas that you had cited, except for the part IX that you also talked about. I just don't know, and I wanted to ask you, why the Harris government would break a commitment to firefighters and literally poison a wonderful piece of legislation by putting in that part IX and demoralizing the firefighters right across this province.

**Mr Tennant:** There are certainly parts that have caused some consternation. I believe the committee has received information and that you'll be able to make possible recommendations or amendments that would come up with an amended bill that would meet the needs of the public in Ontario.

**Mr Ramsay:** Do you think it would be good to have an amendment there that might prevent municipalities from privatizing fire departments?

**Mr Tennant:** I believe public safety is paramount and, as long as the training standards and the service levels are not changed, my personal belief is that when I call 911 I would like to have the best available service come to my emergency.

**Mr Ramsay:** Do you think a privatized operation can do that?

**Mr Tennant:** If it can be shown that it can and not jeopardize public safety, then I think that is in order. Again, it's a local option and that's, I think, what is good about Bill 84. It allows that local flexibility.

**Mr Ramsay:** Do you think there's an error in omitting the definition of a deputy chief? Because that's a very strong management person in a fire station.

**Mr Tennant:** No, I don't think so. I think the management exclusions as provided for in the bill will ensure that whatever the label that's put on to the management, they will still be able to do their job and manage the fire department effectively.

**Mr Bisson:** Thank you very much for your presentation. I'm not going to get into all of the details, but I have great problems with much of this legislation. Part of it, you're right: The fire prevention side and the public education side are steps forward. I don't think firefighters or municipal politicians or opposition members or government members disagree those are steps in the right direction, but there lies the problem.

When you look at this act it talks about the mandating of fire prevention and the mandating of public education, but we don't mandate fire suppression, which is a big problem here. If we're really serious about making our fire departments the best we can possibly get as efficiently as we can pay for them, it seems to me that I would be mandating the fire suppression side. There's my question.

We are living in a land where the federal government is dumping on the provincial governments with down-

loading and the provincial governments are dumping on to the municipal governments their responsibilities through downloading and cuts. How are we going to be able to pay for fire suppression if we mandate fire prevention and public education and we don't get the dollars to do that? Is there a danger that the dollars to do this job are going to come out of fire suppression?

**Mr Tennant:** I don't believe so. I believe there are other provisions in the bill that will address the funding aspects of public education, such as the Fire Marshal's Public Fire Safety Council. Their ability to partner with private industry and other community groups should, and I'm very positive, be allowed to continue. I believe that is a very economical and feasible way to fund the public education portion, especially in the rural areas, where the volunteers need that support.

1420

**Mr Bisson:** Part of the difficulty —

**The Chair:** Thank you, Mr Bisson.

**Mr Bisson:** Chair, there's about five questions. I just had one.

**The Chair:** Yes, because you took two minutes asking it.

**Mr Bisson:** No, I did not, Chair.

**The Chair:** Yes, you did. Are we going to get through this? Mr Ramsay finished within his allotted time. He only used one minute and 45 seconds, to be exact, and you used two minutes of your time. I don't see why you have a problem, sir.

**Mr W. Leo Jordan (Lanark-Renfrew):** Thank you, Doug, for taking time to give such an excellent presentation. I was wondering if you might review once again the bill relative to privatization, volunteer and part-time. What is there in this bill that appears to be causing unrest with some, as to a positive reaction to the bill?

**Mr Tennant:** Personally, I haven't heard or been made aware of, in the smaller rural composite departments, concerns about privatization. Certainly the bill will strengthen the local flexibility to meet the needs that are required. It is a very strong step forward from permissive current legislation, where you don't even have to have a fire department or any fire prevention or public safety, to at least mandating fire safety and prevention.

Prevention is proactive; suppression is a very reactive and very expensive way to fight fire. It's very important to realize the two differences there. Privatizing of a fire department, as I said earlier, hasn't really been a concern at the level that I serve at.

**Mr Jordan:** Why should it be one now?

**Mr Tennant:** I'm here today to present the views of the smaller departments, the volunteers who are doing a very adequate job. People are not dying in their beds, as alluded to by some. The record speaks for itself. We have a very good fire death record. Unfortunately, we have a long way to go and such things as mandatory smoke alarms will also improve that record.

**The Chair:** Thank you very much, Mr Tennant.

**Mrs Lyn McLeod (Fort William):** Mr Chair, may I ask a point of order as a newcomer to the committee? As a northerner, I'm also always very conscious of how far people have to travel to come to committee hearings. I think Mr Tennant has travelled a particularly long



distance. Are the committee hearings so restricted that it's not possible to accommodate, for example, Mr Tennant, closer to a home locality, that he would have to travel this distance to make a presentation?

**The Chair:** The subcommittee and committee decided to derive the witnesses from three lists, each provided by one of the three parties. Mr Tennant was one of those persons on a particular list allocated to this location.

**Mrs McLeod:** Right, so the Conservative members of the committee were able to keep those people close —

**The Chair:** I didn't name the party involved. It might have been yours. I have never seen the list.

**Mrs McLeod:** I appreciate that, Mr Chairman. It was a long distance to travel to make a presentation.

**The Chair:** Thank you, Mr Tennant, for travelling a long distance to assist the committee.

**Mrs Marland:** Mr Chair, I'll make a point of order comment similar to Ms McLeod's. I think it's significant, having sat on the committee yesterday and from what I've heard today, that actually Chief Tennant's presentation was particularly succinct and particularly clear and helpful, no matter what side of this issue you're on, and I would compliment him very much for his presentation.

**Mr Ramsay:** I would second that.

**The Chair:** Neither is a point of order. In any event, we shall proceed.

**Mr Bisson:** I would like to add that there have been a lot of other presentations that have been just as succinct and just as clear and just as helpful, with respect.

**The Chair:** That is not a point of order either. It's now 2:15 and we're slightly behind.

#### MICHAEL PUSTINA

**The Chair:** Michael Pustina. I understand you are Dr Pustina. You are a medical doctor?

**Dr Michael Pustina:** Yes, I am. I am a chiropractor.

**The Chair:** Welcome. We have not — oh, I'm sorry. We did have some medical evidence at an earlier hearing. I'd ask you to proceed.

**Dr Pustina:** First, I'd like to express my appreciation to you, the committee, for permitting me to appear here before you in order to voice my concerns regarding the enactment of Bill 84.

As you are aware, my name is Dr Michael Pustina. I am a local chiropractor and I have been in practice now for nine years. I feel very privileged to have been active in the treatment of many of the firefighters here in Thunder Bay and in being able to attend to their health care needs. It is an honour. It is because of this particular involvement that I would like to express my concerns to you the committee.

So what concerns me? What are those concerns? Number one: Bill 84 results in understaffing. When we talk about understaffing, we are going to slow down the response time. The response time is of the utmost importance and significance when it comes to life-threatening situations. I will allude to this fact later.

Second, we now have fully staffed emergency vehicles which are the very key in emergency situations. Bill 84 will shorten staff on these vehicles.

Third, Ontario has two categories of firefighters right now: one, the full-time professional firefighters; secondarily, there are volunteers. Bill 84 proposes a new category which will be part-time firefighters. This could seriously impair the effectiveness, the efficiency and the experience behind the firefighters that they now have. If we do this, we will undermine property and personal fire protection. I don't want to do this.

Bill 84 creates other areas of concern to me as well. Doors will open to privatization. I am substantially concerned with this. I lived in the United States for over five years and they have significant problems with privatization to date. When you bring the profit motive and the bottom line into the same equation, necessary manpower and material will ultimately be sacrificed under a cloak of necessity which is designed to create a profit for the owners, whoever these new owners may be. Privatization cannot be a factor in the provision of effective firefighting services, which is simply an essential here in our community.

Bill 84 creates bureaucracy. More managers in emergency situations will create more roadblocks and more concerns. We don't need that in an emergency situation, especially the roadblocks. We will decrease teamwork as well. If we're planning on decreasing the number of full-time firefighters and increasing the number of part-time firefighters, what will happen is that — teamwork right now is so vital, it is so important, it is an integral part of firefighting. If we compromise that we will lose the teamwork capacity and their abilities. I don't want to do this. This will adversely affect our community.

#### 1430

I would like to take the time right now to share with you a personal experience in which I was involved and which is why I am concerned with Bill 84, which brings me back to the first point I raised, the loss of rapid response time.

June 18, 1995, Father's Day. My family and I were involved in boating on the Cam River for an afternoon. We were involved in a very serious boating accident, extremely serious. The boat had lost control and struck a large, 150-foot dock. There was nobody around when the accident happened. So there we were, my family. I have two children — they were three and five years old at the time — my wife and myself. As a result of the accident, we were all unconscious, profusely bleeding and the boat was sinking.

Because of the nature and the extent of our injuries, time was the most significant factor here. Time. There was nobody around to even witness this accident. The emergency vehicles, including the firefighters, were on the scene in less than six minutes from the time that they were called. It took less than 20 minutes before we were put into emergency at McKellar — emergency at McKellar; I won't belabour that with this committee.

Had it not been for the quick response time in our accident, neither I nor any of my family members would be here to speak with you today. This is how important it is to me. The firefighters were an instrumental part of the team that saved my life and my family's lives. If they had needed part-time firefighters, the response to that emergency may have been compromised significantly,



enough that I would not be here today to tell you this story. You cannot put a pricetag on the value of human lives and health. It is priceless.

The firefighters I deal with here in Thunder Bay are in great physical and mental health. They have excellent mental attitudes and physical abilities. I ask that we not jeopardize these, especially the moral attitude that will happen should some of these things be passed. As a doctor, based on my past and present experience, I can guarantee this and this only: Once you lose your health, you have nothing.

I'd like to read this to you. It's called *The Touch of the Master's Hand*:

'Twas battered and scarred, and the auctioneer  
Thought it scarcely worth his while  
To waste much time on the old violin,  
But held it up with a smile:  
"What am I bidden, good folks?" he cried,  
"Who'll start the bidding for me?"  
"A dollar, a dollar"; then, "Two! Only two?  
Two dollars, and who'll make it three?"  
"Three dollars, once; three dollars, twice;  
Going for three — " But no,  
From the room, far back, a grey-haired man  
Came forward and picked up the bow;  
Then, wiping the dust from the old violin,  
And tightening the loose strings,  
He played a melody pure and sweet  
As sweet as a caroling angel sings.

The music ceased and the auctioneer,  
With a voice that was quiet and low,  
Said: "What am I bidden for the old violin?"  
And he held it up with the bow.  
"A thousand dollars, and who'll make it two?  
Two thousand! And who'll make it three?  
Three thousand, once, three thousand, twice,  
And going, and gone," said he.  
The people cheered, but some of them cried,  
"We do not quite understand  
What changed its worth." Swift came the reply:  
"The touch of a master's hand."

And many a man with life out of tune,  
And battered and scarred with sin,  
Is auctioned cheap to the thoughtless crowd,  
Much like the old violin.  
A mess of pottage, a glass of wine;  
A game — and he travels on.  
He's "going" once, and "going" twice,  
He's "going" and almost "gone."  
But the Master comes, and the foolish crowd,  
Never can quite understand  
The worth of a soul, and the change that's wrought,  
By the touch of the Master's hand.

Where would any of us be if and when we should need their help? Who are "they," you ask? "They" I refer to as the people who are involved in responding to saving people's lives. I ask you, is there anything more important than the value of human lives? Are we willing to

sacrifice the master, the value of the master's hand, for the sake of the dollar? "No, not I," said he."

I hope not, because no pricetag can be placed on the value of human health and human lives. I thank you for your time.

**The Chair:** Thank you, Doctor. We only have about one minute per caucus.

**Mr Bisson:** I was touched by the story you gave about what happened to your family, the short story. I don't think you said it in your presentation, but in the end, if we move to a system of hybrid, such as is possible with this bill, where you have the mixture of volunteers with full-time firefighters or part-timers, do you think your family would be in any more danger because of the response time it might take to get the volunteers to come in?

**Dr Pustina:** Definitely.

**Mr Bisson:** You have an opportunity to say to the government what it is you have to say. What advice do you give them?

**Dr Pustina:** To make amendments to the bill that are with the needs of the firefighters today. It works as it works now. Why change what's working?

**Mrs Marland:** I too would like to thank you for your presentation. I'm just not clear where the criticism of the part-time firefighters is coming from. Maybe you can help me with this. I'm getting a little upset about the fact that we have so many lives saved around this province by volunteer and part-time firefighters, and suddenly they're becoming second-class citizens in debating this bill. Particularly I'm surprised that a lot of the comments are coming from the New Democratic Party. You must have worked with part-time and volunteer firefighters and I'd like to know your opinion on that.

Also, do you think your local municipal councils would not prioritize in terms of human lives and safety in setting the budget for fire protection?

**Dr Pustina:** First I'd like to answer, what is the importance of full-time versus part-time? Full-time brings experience. I find the best doctors we have are well-experienced doctors. The ones who are part-time emergentologists, even family physicians who step into the emergency to supply emergency services, are not quite well established or not quite well versed with the knowledge of treating emergency situations. So we prefer full-time emergentologists rather than the family doctor who likes to come into emergency and treat these patients. People with experience get results. We need experience and I don't want to compromise that with the part-time.

**The Chair:** We must move on.

**Mr Ramsay:** Margaret, I'd like to answer that, because it's very clear. Forgetting the experience difference — Margaret, I'm going to answer your question for you — the point is that the part-timers and volunteers aren't at the firehall when the call comes in. So if you've got, in a big city especially, some big emergency that you've got to get to fast, as we've talked about, response time is paramount. That's what we're talking about. We're not denigrating the skills and the dedication of the part-timer or the volunteer.

What we're saying is, in big urban centres and areas where there are all sorts of rescues, unfortunately inci-

dents that happen, defibrillation requirements in big cities that happen, to have a full-time professional firefighting squad on call is what is required. That's the difference. In a rural area where I live, where we don't have those sorts of action calls all the time, yes, we can get along with a volunteer fire department. That's the difference. What we don't want to see is municipalities under the pressure of the Tory downloading having to go to volunteers and part-timers and put the public in Ontario at jeopardy. That's the point of this whole hearing.

**Mrs Marland:** What council is going to —

**The Chair:** I'm sorry, Mrs Marland, you're out of order.

**Mrs Marland:** I just got a lecture from the Liberal member. Is that in order?

**The Chair:** He's entitled to use his time as he sees fit, and he has just done so. In any event, Doctor, your time is up and I thank you very much for taking the trouble to attend before us and assist us here today.

**Dr Pustina:** I thank all of you for your time today.

1440

#### THUNDER BAY AND DISTRICT LABOUR COUNCIL

**The Chair:** Our next presentation will be by the Thunder Bay and District Labour Council, Evelina Pan. Welcome, Ms Pan.

**Ms Evelina Pan:** Thank you very much. I'd like to introduce myself. I'm Evelina Pan, the president of the Thunder Bay and District Labour Council, and we'd like to thank the standing committee for the opportunity to speak here today.

I'd like to point out — this is not a strip show — that the T-shirt I'm wearing today is for the Thunder Bay Day of Action, which is on April 28. I'm sure you all know that April 28 is the day of mourning for workers killed and injured on the job. We're quite afraid that the effects of Bill 84 will mean that more workers, and in this case of course firefighters, will be injured and, heaven forbid, killed while working. The Day of Action on April 28 gives our community the opportunity to protest the reactionary and regressive legislation that both senior levels of government — and we're not targeting just the provincial government, but the federal government as well — are imposing on us in the communities. This hearing is another opportunity for us to make our views known.

Public hearings such as this one on Bill 84, the Fire Protection and Prevention Act, follow the same fatally flawed form of all other Harris government consultations. The flaw of course is that it's only the illusion of consultation, but not true, meaningful and honest venturing out of the hallowed halls of Queen's Park to hear what people think. How can they hear when they're talking?

An issue of secondary concern is the relatively short amount of time we've had to prepare for this session. The current Ontario government is very good at this. They appear to want to hear what we have to say but they don't really provide a realistic time frame. What's the great hurry to get this and other regressive legislation passed? Can it be because the government, which was

elected by barely one in three voters, doesn't expect to be around after this term of office, so it will do everything it possibly can in its very brief tenure to grant the wishes of its corporate masters?

Researching the history of Bill 84 shows that the professional firefighter associations have not been taken seriously. What a mistake. These are the men and women who every day of our lives are out there fighting fires, preventing fires and providing other emergency services. We hope the hearings being held here today, those in Toronto that you had over the last couple of days and then in the other four communities around the province will have an impact on the final version of this legislation.

We appreciate that the government is trying to consolidate nine acts that govern issues around fire services in order to streamline and avoid duplication, but this proposed piece of legislation goes far beyond that noble quest.

We'd like to start our discussion of Bill 84 with a look at some of the basic definitions in part IX, section 41(1).

**Employer:** Up until now, municipalities were the sole employers of firefighters and have operated fire departments. The new definition is expanded to include "person or organization." Is this a sneaky way of saying that private enterprise could be an employer? We all know what contracting out of public services to the private sector means in reality, and that's a decrease in the quality and types of services, a significant cut in pay to those who provide the services, fewer people to actually do the work and no democratic accountability. When the Bill 104 Fewer School Boards Act hearings were here a few weeks ago, they were able to ferret out only one case of where contracting out would result in savings and a larger number of employees.

**The next section — managers, not firefighters:** Under the proposed Bill 84, more firefighters can arbitrarily be deemed managers, which takes them out of the bargaining unit and increases the rank of middle managers.

**Firefighter:** Two words — fire fighter. There is nothing in the proposed bill that indicates firefighters should be full-time, only that they be regularly employed on a salaried basis. In the real world, and we've heard it from the other presenters here today, especially for matters so critical as life and death — and we are talking life and death — there needs to be the continuity and the consistency provided by full-time permanent staff who receive regular training and upgrading to keep current with changing technology.

It boils down to a matter of public safety, to ensure that those men and women who fight fires are full-time professionals who, because they work together regularly, know each other well enough to completely entrust their very lives to their teammates. When firefighters are at the scene of a fire, it's crucial that each one of them is devoting every bit of their attention to fighting the fire, and not worrying if the part-timer with them is up to the challenge because they might have just come off shift from another part-time job flipping burgers perhaps.

Bill 84, section 41(2), contains provisions to deem persons not to be a firefighter if,



"(a) in the opinion of the board, he or she exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations; or

"(b) if he or she is a person designated under subsection 58(3)."

In the first method, the firefighters' association can appeal to the Ontario Labour Relations Board for the removal of firefighters from the bargaining unit. The second method is completely arbitrary and not subject to review by the labour relations board or any other body. This is a most dangerous tool that employers can use to muzzle firefighters and deny them representation by the firefighter associations.

As one who has been part of a number of sets of negotiations, I'm very well aware of the importance of both parties bargaining in good faith and making every reasonable effort to achieve a collective agreement. However Bill 84, as proposed, doesn't provide any specific mechanisms for ensuring that this will happen.

Section 41(4), "transition," is too vague. A broad interpretation might give full successor rights, but because it doesn't explicitly provide that the collective agreements remain in effect, and certainly doesn't provide that associations, which have referred their collective agreements to arbitration, can continue with the arbitration process, the implications of this section are so important that the four lines it takes are completely inadequate and raise the possibility of many disputes with employers.

Another example of the undemocratic nature of the Harris government as evidenced in Bill 84 is section 42, which prohibits firefighters from going on strike and of course employers from locking them out. The panel should be aware that no other labour relations legislation makes such a stipulation. Every firefighter collective agreement in the province has a no-strike and lockout clause. In the almost 100-year history of professional firefighters here in Thunder Bay, there has never been even one occasion of a strike or lockout. So why is the government discriminating against firefighters by including this section?

Section 52(1) restricts the firefighter associations from being able to bargain for hours of work. Section 43 caps the number of hours a firefighter can be assigned to firefighting duties at 48 hours in an average week and ensures a minimum of one 24-hour period each week during which a firefighter is not at work or on duty, but there are no provisions for challenging improper assignment of working hours by an employer. All other union groups can bargain for hours of work. Why not firefighters?

Section 52(2) stipulates that the Minister of Municipal Affairs and Housing — remember a little while ago we talked about the Ministry of Labour? now we're talking about the Minister of Municipal Affairs and Housing — can determine the maximum amount of pension benefit available to a firefighter. Why are firefighters prevented from bargaining pension benefits better than what the Minister of Municipal Affairs and Housing allows?

In closing, we'd like to reiterate our main areas of concern with Bill 84:

(1) This proposed piece of legislation is the first step in privatizing fire services, the most dangerous aspect of

which is making profits the ultimate goal of fire suppression, fire protection, fire prevention and other emergency services, to the detriment of the community. This idiocy was abandoned last century. Our safety and wellbeing cannot be subordinated to the profit goal of some corporation.

(2) This government, which proclaims its desire to reduce costs, is increasing the level of middle management by increasing the number of firefighters excluded from the bargaining unit.

(3) This legislation does not stipulate that firefighters have to be full-time. Part-time personnel — and I know you've heard this before and you'll probably hear it again — just cannot keep up with the changes in training and technology or gain experience in the same way as full-timers. Permanent full-time firefighters work in life-and-death situations. Their safety as well as public safety has to be the primary concern.

(4) Every party to collective bargaining negotiations must be able to bargain freely and fairly, including on such matters as hours of work, no strike or lockout and pensions. The Harris government's hatred of working people comes through loud and clear in this paragraph.

This proposed legislation is just another example of the Harris government rushing off, madly imposing half-baked schemes without considering the implications. The government should stop right now, look at the current Fire Departments Act and, in serious consultation with professional firefighters' associations, make any changes if they're necessary.

We hope that on April 28 — let me stand up once again so you can see my shirt — you think about us here in Thunder Bay and our Day of Action, as we fight back, take back — that's our slogan, "Fight back, take back" — our communities from the rapacious governments at Queen's Park and on Parliament Hill.

1450

**Mrs Marland:** Oh, you're against the federal government too.

**Ms Pan:** Absolutely. If you had been listening, you'd have heard it; I said it earlier.

**The Chair:** Excuse me. We only have one minute per caucus. We'll start off with Mr Johnson. One minute, Mr Johnson.

**Mr Ron Johnson:** Thank you for your presentation. I keep hearing negative things about volunteer and part-time firefighters. My wife is a nurse at a hospital, and she's a part-time nurse. I can tell you that if you were to go into an emergency room in a hospital, you wouldn't know whether or not you had a part-time or a full-time nurse looking after you. The bottom line is that there are certain standards these people have to meet, as there are with firefighters. They have significant standards that they espouse, so I don't understand the concern there.

I would also look at the fact that all over the place you've got volunteers and part-timers working all the time to serve rural areas. I would ask you this: If Thunder Bay doesn't have any volunteer or part-time firefighters now, which they can — they can have volunteer firefighters now in Thunder Bay; they don't, and there's probably a reason for that. I would ask you what you think that reason is.

**The Chair:** Thank you, Mr Johnson. Your time is up, and we turn to Mr Ramsay.

**Mr Ramsay:** I think it might be because of the Harris government downloading.

I would like to ask you a question because I share your concern about privatization. While we have seen letters from the minister saying, "I'm not encouraging the municipalities to privatize," I certainly see this legislation as being very permissive, and I was wondering why you think the Harris government, through this act, is allowing the privatization of fire departments.

**Ms Pan:** Let's think about who the Harris government is supported by, who funds them, who calls the tunes. Those who call the tunes in the Harris government are not the taxpayers. We're the poor folks out here who are getting dumped on, day after day after day. If anybody with half a brain were to think about it for a moment, that individual would find that it's the corporations, the big corporations, not the little mom-and-pop places but the big corporations, that are behind the Harris government, that are pushing the Harris government and that are pushing for privatization, pushing for all the kinds of things that hurt working people, hurt poor people and hurt the communities, because all this downloading stuff, whether it's from the federal government or the provincial government, affects the communities, and you're killing us. You folks are killing us.

**The Chair:** Thank you, Mr Ramsay. Mr Bisson.

**Mr Bisson:** I'll give you a chance to answer his question.

**Ms Pan:** Part-timers: If the government is serious about respect — and I don't believe they are — and if they're serious about consultation on an issue such as this, Bill 84, to do with fire protection, fire suppression, fire prevention, they would listen to the firefighters' associations. These are the people who do the work.

Now, if we respect the work they do, and I'm sure we all do, then we would listen to them. When I hear the firefighters say to me, "We don't want part-time people; we want full-time people," then we should listen to them. Why do they want full-time people? They want full-time people so they can have that camaraderie. With all due respect to your wife and all other people who are part-time nurses, part-time whatever, I'm not particularly interested — are you? — in having open heart surgery on an emergency basis by a part-time volunteer doctor.

**Mr Ron Johnson:** Well, they do it.

**Ms Pan:** Part-time, volunteer?

**Mr Ron Johnson:** Many doctors work part-time.

**Ms Pan:** Volunteer?

**The Chair:** Our time has elapsed. Thank you very much for your presentation.

**Mr Bisson:** I think it's the brain surgery that is done part-time, not the heart surgery.

**Mr Ron Johnson:** Only on the NDP.

#### THUNDER BAY AND DISTRICT INJURED WORKERS SUPPORT GROUP

**The Chair:** Our next presentation is the Injured Workers Resource Centre, Francis Bell, executive director. Welcome, Mr Bell. Please make yourself comfortable and when you're ready, proceed.

**Mr Francis Bell:** It's an opportunity to be here and I appreciate it. I hope today the information we're going to provide you you will find interesting, that you will review it and, more importantly, not only listen to it now, but when you go back into third reading and second reading, going clause-by-clause, that you look at this information.

I want to tell you at the outset that I come here slightly different. As you see, I walked up with a cane, because I'm an injured worker. I also come from a highly volatile industry, that of mining. What do I know about firefighting? I'm not a firefighter, and I'm proud to say it, but I'm also former mine rescue personnel, second person, assistant to the captain on a mine rescue team. With this, I come here to you today with some experience, and I ask that you think about that.

The group I represent here today covers roughly a quarter of a million square miles. Think about that. You've come a long way, but as you start flying over the Sault, you come to the rest of Ontario; some of us in the north like to say that's the better half of Ontario, because we don't seem to squabble as much as what we see on TV in southern Ontario. I don't know if that's because we don't have the Legislature up here, but it certainly doesn't impress many of my colleagues and it doesn't impress my kids. There's something wrong, and you people have to grow up.

This bill is an example of not listening to people. This bill is an example of saying to the firefighters, especially those in Thunder Bay, because that's where you are today, "You really don't know what you're talking about, because we at Queen's Park know better."

I've had the privilege of sitting down with the firefighters and talking about this bill, and I find this kind of ironic that an injured workers' group can sit down and talk to the firefighters and understand that they have some concerns and be advised that this panel cannot tell the firefighters the answers and allay their concerns. You haven't met your obligation. I'm not going to talk to you about it from a worker perspective; I want to talk to you about it also from a community perspective.

I'm not prepared to see businesses in this town — and I'll say this again so you understand it — I'm not prepared to see businesses in this town get burned down because you guys have decided you can limit the size of fire crews and they won't be able to go in and do a rescue. I deal with death and fatalities, I deal with injured workers on a daily basis. I'm saying this here, with all great respect to every firefighter in this room and across this province, I don't want them to become an injured worker. Is that clear? I hope so, because this bill is saying, "It's okay, you can jeopardize firefighters." I'm telling you, you better not jeopardize the firefighters of this province.

If you had this legislation in power prior to your government taking office and you had your red tape commission, they would take a look at this bill and just go, "Oh, are we going to have fun now," because this bill is riddled with problems.

I ask that you slow down, think about what you're doing and that both the government and the opposition say, "Let's make sure we can resolve every question,



make sure we can come up with clear answers and make sure we don't put anybody at risk." Firefighters are at grave enough risk as it is.

I also have a labour relations background, and I want to tell you now that if you were trying to open this up for lawyers, you've done an excellent job. Every lawyer in town will be happy, because of the fact that as you change an act, you put a whole bunch of new sets of litigation into process. I'm telling you that this thing is riddled for lawyers. If I was a lawyer, I would say: "I don't have to worry about an income for the next 10 years because by the time we get through litigating this bill and this act, guess what, folks? I could be a millionaire." You guys have made it great for lawyers, but you certainly haven't resolved the labour relations issues.

I'll give you an example. When does what act take over? If a workplace has a fire team, a first-response team, which act takes precedence? Is it the Labour Relations Act, is it the Occupational Health and Safety Act or is it the Fire Protection and Prevention Act? I tell you, there'll be a bunch of lawyers happy to litigate it, and there will be some judges happy to litigate it, as you have already found out.

You have also an issue of existing agreements. I do not see anywhere in the bill that existing agreements can be resolved, that you've made plans for those existing agreements and, more importantly, what is the result? When you take people out of a bargaining unit, you change the whole concept of what that bargaining unit is. Does that mean that all agreements that were signed previously with people who are now removed are no longer in force? Does it mean that because there's a new act and they're under the Labour Relations Act, all existing agreements are gone? Does it mean that these associations now have to become unions and meet the obligations under the Labour Relations Act? Again, folks, litigation, litigation, litigation. Lawyers are happy; firefighters aren't happy.

1500

With regard to protecting people, isn't the real obligation to protect the community? If this bill in any way inhibits the protection of people in the community, have you not failed? How many lives have to be put at risk? How many lives have to be lost? How many firefighters and members of the community have to be injured before you'll say, "Oops, we made a mistake." I'm asking you to say now, "I'm willing to slow down, I'm willing to look at those questions, and let's design a bill that truly meets our needs." If it doesn't meet the community's needs, it doesn't satisfy the most important people — and those are the people on the front line — then you haven't done a good job. I ask that you slow down and think about it.

On pages 13 to 15, the challenge we offer to this committee is this: If you're prepared to ram through this legislation, then you should be prepared to stand up and say to the citizens of this province, "Bill 84 will in no way increase the risk for you, your property or your community." If a situation occurs where a municipality cuts back on its crew size and you are willing to take the legal risk and willing to make the legal payments for loss of life, loss of home, losses in the community and stand

up to me and tell me I'm wrong, I want you to take this pledge. I would refer you to pages 14 and 15. I hope you'll do it today, if you really believe in this bill. If not, and you don't stand up, then I think that sends us a message.

"Because I believe in this bill, Bill 84 so much, I" — please state your name — "wish to go on record now saying that I believe that Bill 84 will in no way interfere with the firefighters' ability to react to a firefighting situation, will no way interfere in the rescue of citizens of the province of Ontario. Further I" — state your name — "believe Bill 84 will not result in the partial or full burning and/or water damage to a home, businesses or property. I" — state your name — "believe that Bill 84 will not be a contributing factor to an injury or disease. I" — state your name — "believe that Bill 84 will not be a contributing factor to a loss of life."

April 28 is the Day of Mourning. It's the day we pay respect to injured workers and to their families, those who have lost people at work. I now think this is so perfect that you're in town prior to that, because on April 28, wherever you are, I ask that you think about this bill and say, "Because of my decision, am I going to add one more person, two more people or more to that situation, where those will be names added to the list of people we'll be paying respect to on April 28?"

I thank you for the time, and I welcome your questions.

**Mrs McLeod:** Thank you very much, Francis. I understand the pledge is unique in the presentations that have been made to the committee, but I wanted to ask you about something else that's unique in the legislation. That is the fact that firefighters under this legislation would not have the right to grieve hours of work. I wonder if you could comment on why you think that kind of unique provision would be in this legislation — I don't believe it exists elsewhere — and what you think the risks of that might be, not just to public safety but to firefighters themselves.

**Mr Bell:** The problem when you have something like that is that you have a situation where you give one side, in this case a municipality or a city or a corporation, the power to make the final decision. In that process, there's no way to say, "This is wrong." We all know that in any workplace, we have differences. In fact in Thunder Bay we've just gone through that. There are going to be times when we have differences, and if you take away their right to do something about it, what you're saying is that it's okay to work multiple hours.

I come from an industry where we had people working 10 and 12 hours in an underground situation. I can tell you as a former chair of the health and safety committee that as we went into longer hours, guess what? Our accident rate went up, something you can draw comparisons on pretty quickly. I have a concern if you leave that type of thing unfettered, and leave it in the power and control of one person. You're asking for a problem.

**Mr Bisson:** We've heard in your presentation and in other presentations earlier that the labour relations side of this bill in effect sets up full-time firefighters as a second class of workers. How we treat successor rights is different; how we treat the hours of work, ie, you cannot

negotiate hours of work; there are limits put on how much you can negotiate your pension benefits for; the probation provisions basically say that if you don't have a unionized environment, you have a 12-month probationary situation; how we fire employees; the second-class worker firefighter, there are going to be differences; there's no right to strike.

Why, in your mind, would the government try to set up the firefighters as a second-class — I shouldn't say "second-class"; that's maybe not the right term — as a different class of workers as compared to the rest of workers in the province and take away what are fundamental rights to somebody working in a local mine or working at one of the Abitibi mills or wherever it might be across northern Ontario?

**Mr Bell:** I think they're doing it because they've been caught in a one-sided argument and haven't bothered to sit down and listen to other people. I can tell you that if you do that, what you're saying to firefighters is not only are you second-class, but I think you're going a step further and you're saying, even though we're telling the public we want them to fit in the Labour Relations Act, we really don't want them to fit in there. We want a separate act for them, but we don't want to call it a separate act because we're trying to meet our idea of consolidating acts.

The reality is, I'm telling you folks, you're going to litigation. As somebody who has done representation, I can tell you some lawyers are going to be very rich, but the municipalities are going to pay for it, the employers are going to pay for it, the associations are going to pay for it. In the long term, everybody's going to pay for litigation.

**Mrs Marland:** One of the advantages of having travelled this province now for 12 years on committee is that I can sit here as a member of the Conservative government and quite enjoy the opposition of injured workers to the legislation, because for 12 years I've seen injured workers' groups and other unionized groups — I'm not saying the injured workers are unionized groups — oppose other bills of both the previous Liberal and, amazingly, the NDP government. Certainly, as you know, the social contract was opposed by everybody. So I guess I'm not surprised that you're here opposing a government bill, because I have seen this done for 12 years, no matter who the government was. You mention your background in mining. I travelled on the mining legislation too.

I'd like to ask you, apart from your opposition to provincial government, how you feel about your local municipal government. Do you think your local municipal councils across this province, who have protected their citizens by decisions they've made in the past about fire protection, are not going to make that a priority, to protect their citizens by their decisions in the future as to standards of service?

**Mr Bell:** I want to first answer the first part of your question. Yes, I remember speaking to you. I remember you telling us that those people who work in the industries such as mining should be the ones calling the shots because you understood how dangerous it was. It's a shame you're not doing this in firefighting.

With regard to municipal, I ask that you watch in June and July what my position is, because you're going to see it quite clearly. At that time I will be donning a hat that I don't currently wear, but I have a concern and I've talked to people. Don't be surprised if you see my name in the political arena for municipal, because I'm concerned that this bill is going to go through and the risk is going to be put there from the present council. That's why you may just still happen to see my name in the political papers at that time. I'm prepared to take action.

**The Chair:** Thank you, Mr Bell, for taking the trouble to come and make your presentation here today. We appreciate it.

We had a cancellation at 3. Shelter House/Thunder Bay was our next presenter. They have just come in, so perhaps we can proceed.

**Mr Bisson:** On a point of order, Mr Chair: The cancellation is the City of Thunder Bay Fire Services?

**The Chair:** Yes.

**Mr Bisson:** They cancelled? Is that because they've been given a gag order such as their chief has been given?

**The Chair:** I don't know. We are just told they cancelled. I wasn't necessarily given the reason.

**Mr Bisson:** I'm just wondering, because I understand that the fire chief has been given a gag order by council and I'm wondering if that extended to the fire service people themselves. Can anybody answer that?

**Mrs McLeod:** The firefighters are coming here later.

**Mr Bisson:** They are? Okay.

**The Chair:** I don't think we should get involved with the local politics. I really don't know.

#### SHELTER HOUSE/THUNDER BAY

**The Chair:** We now have Shelter House/Thunder Bay, Mr Keith Milne, manager. You're early, sir. We appreciate it.

**Mr Keith Milne:** I rushed to do that.

**The Chair:** We've allotted 15 minutes for your presentation. I'd ask you to proceed.

**Mr Milne:** I won't take 15 minutes, I promise you. I appreciate the opportunity to speak to you for a few minutes about the issue of Bill 184, or whatever it is.

**The Chair:** It's 84.

**Mr Milne:** I'll get it out here so I know what I'm talking about.

As I begin, first of all, I don't know much about the technicalities of firefighting, but I do know that it's one of the things that happens within our community that is a matter of life and death. As the manager of Shelter House/Thunder Bay, we are a shelter that shelters homeless people, so on any given night we're responsible for 35 or 40 people who are sleeping under our roof, and hundreds of people throughout the day. That's a responsibility for safety and refuge.

I can sleep at night when I go home and I know that my staff are there to watch over things and to make sure we're doing what we're supposed to be doing, but also in knowing that if anything happens, we have emergency services in our community that are there to back up and provide that service. So when one of our services such as



firefighters is being threatened, I think we have to speak up and let you know that we're not too happy.

It's only common sense to realize that expertise and reliability and response time are crucial elements in having success in fighting fires and saving lives. Saving lives is a lot more important than saving dollars. How one can try to balance the two is a great challenge, but we must realize that it's very important to preserve life. That's what makes the role of the firefighters so crucial to our community.

When I read through documents such as the proposed act and I see things like the concept of privatizing fire-fighting services, that gives me cause for concern when studies have been shown that if you privatize a service such as this, you don't have the same positive effect. You save dollars maybe, but you don't save more lives.

The concept of having part-time firefighters causes me great concern. We have had a few occasions over the last few years where, due to the alertness of our staff but also because of the quick response time, we have not had to suffer loss, and that's very important. I'm sure there are lots of presentations around the importance of having quick response time and how that saves lives and property and leads to success in fighting a fire.

1510

At one time, we used to joke when I would leave at night, "Don't phone me unless there's a fire." Then we had a couple, and we had one actually right in our dormitory. We don't joke about that any more because we realize how serious the consequences could have been. But we know that because our firefighters were quick in responding, lives weren't lost. We could have lost 30 or 40 lives.

I don't know how I can communicate to you how important this is or how absurd it is to think that saving any kind of dollars makes sense in relationship to saving lives. I don't know how I can communicate that to you other than what I've said.

If you want to sum it up, I have one simple message: How dare you try to save money under the thinking that fiscal responsibility can lead to irresponsibility for lives. People's lives are a lot more important than dollars. We can pay off debts; we've got lots of time. We can't pay off somebody's life. That's my submission. Thank you.

**Mr Bisson:** You touch on something in your presentation that I think needs to be said. First of all, fire services are just that: They are a public service that we, through our tax dollars, pay for. We chose some years ago to make it a public service so that we don't look at dollars when it comes to fighting fires, we look at lives.

If we go back in our history to the early beginning of fire brigades, a lot of people might not know that fire brigades were actually creations of insurance companies. There used to be a time in the 18th century in England, when fire brigades first came up, that if you didn't have the mark of the insurance company on your door and there was a fire and the fire brigade showed up, the house burned down. It was very simple: You didn't have the insurance, you didn't have the mark, and that meant to say the fire brigade didn't come out and save your building from burning or possibly even try to save a life.

We've learned through our history that fire services are a very important public service that needs to be given in order to ensure there is safety of our citizens in our communities. This bill introduces the possibility of privatization. I, as one, have some great difficulty with that, because although I believe the private sector has its role to play in our marketplace economy, I don't believe that the private sector should be in the business of delivering what are essentially public services. The comment I would make is that in your presentation you make that point quite clear. I think something that needs to be said is that we can't look at the two of them as being the same. You cannot assign a value to human life. That's what we pay our taxes for: to ensure that we have good fire protection services to protect us in our own communities.

**Mr Milne:** I would agree with you that philosophically there are some essential services that as citizens we feel are our right. I don't think even this government could go so far as to say that this is not an essential service. So I would agree with Mr Bisson that this is an essential service, and it's there and protected as an essential service because of its importance. We can't be putting our fire departments under such situations where they have to start choosing between saving dollars and saving lives.

May I add, though, I don't expect that there will be a lack of responsibility. Certainly it has to be within reason. I don't expect the fire departments to go out and be able to spend and spend and spend, but within reason they need to be protected from having those kinds of headaches where they would be given those kinds of choices.

**Mr Bisson:** Here's hoping you never have to be called when there's a fire, when you're home and away from your work.

1520

**Mr Ron Johnson:** Thank you, sir, for your presentation. I want to talk for a minute about the privatization issue, because I happen to have some difficulty with the wording of the legislation and how it could expand the possibilities. You indicated in your submission — and we've heard this actually from the Thunder Bay Coalition Against Poverty as well; they said the same thing — that there were a number of studies that show that privatization of these types of services has hindered public safety. Can you tell me to which studies you're referring?

**Mr Milne:** First of all, I've not done extensive research, but some of the material that was given to us in preparation looked at some of the departments like in Arizona.

**Mr Ron Johnson:** Can you tell me where you got the material from?

**Mr Milne:** Oh, Jeez, it arrived on my desk, probably from the firefighters' association, which is a group that we have communicated with about this act.

**Mr Ron Johnson:** Maybe I'll look to them for those studies, then.

The other question I have, because you indicated that part-time firefighters was a concern of yours as well, can you explain to me the difference between a volunteer firefighter who is on a compensation package of \$6,000

or \$7,000 a year and a proposed part-time firefighter as we've outlined in this legislation. Can you tell me the difference between the two?

**Mr Milne:** I've lived in communities where there are part-time or volunteer fire departments, guys who are working full-time and they have to be called away from a job to fight a fire. Their response time, realistically, cannot be the same as those that are on duty, prepared to go at any moment.

**Mr Ron Johnson:** I've had experiences in Brantford where it has been the opposite in fact, where depending on the location of the fire — not everybody lives next door to a fire station. In the township and in Brantford they have an agreement where they go to the closest, and in fact sometimes the volunteer firefighters are there first.

**Mr Milne:** I'm sure that might happen, but in an urban setting, particularly like this, the fire stations are set up strategically so that the response time is consistent and is as quick as possible. That's not going to happen when you have your firefighters scattered all over the city.

**Mrs Marland:** Mr Milne, I really want to emphasize to you that there isn't any government that's going to prioritize in terms of lives versus money, and there is nothing in this bill that says that.

I too wanted to ask you one thing very quickly about this question of availability of part-time firefighters. We haven't had part-time firefighters; we haven't had prioritization of the fire services in our municipalities. How do you see that decision being made for any large urban area? It just wouldn't be practical. Why, if it hasn't been made before, would it be made now?

**Mr Milne:** Whether it has been done before or not, this piece of legislation allows for it to happen; it could happen.

**Mrs Marland:** It allows for it now without the legislation.

**Mr Milne:** Is that right?

**Mrs Marland:** Yes.

**Mrs McLeod:** I notice that the government members tend to make a lot of assumptions about what municipal councils will and will not do. I'm hoping that the committee Chair might consider adding the time that would have been taken by the Thunder Bay fire service that was cancelled to the Thunder Bay firefighters' time so that they'd have an opportunity to answer a number of the questions that I think the government members have been raising. It would be interesting for Mr Johnson to know, for example, what effect the legislation has on the kind of cooperative agreements that exist in this area to respond outside the urban area.

But the question I most want to pick up with you, Keith, is the one that has just been raised by Mrs Marland and has been raised by Mrs Marland in the past, and that's why would any city council jeopardize public safety by looking either at an increased number of part-time firefighters or by privatizing to somebody at the lowest possible bid? My question about the government that I'd love to have answered is, if they don't think the councils are going to use the part-time option or the privatization option, why provide the flexibility in the legislation to let it happen?

Keith, what I'd like to explore with you, given your experience in dealing with city councils, in having to make representation for support for emergency shelter, which is obviously keenly important to the community and to people in the community — I also know you've been concerned about the issue of downloading and how many new social services are going to be a municipal responsibility along with sewers and ambulances and health units and highway maintenance. I'd like your thoughts on what pressures a municipal council is going to be facing that might lead them to have to take some steps they would hope wouldn't jeopardize public safety but could.

**Mr Milne:** I have this theoretical thinking, basically, about the responsibilities of the levels of government. I think the responsibility as you go higher is to protect the groups at a lower level. I was going to say why I think part of the responsibility of a provincial government is to protect the citizens against the stupidity of some municipal governments, but I don't know if Richard had the cameras rolling for that.

But I think there is definitely a pressure that is created at a local level of government that is much more intense than at a provincial or federal level. Municipal governments are then much more prone to being pulled every which way because of the local pressure and the persistence of local people trying to deal with their local issues. They could be put into a situation where they'd have a great amount of pressure to try to trim costs here to help someone else or if someone in their neighbourhood wants something. I think we'd be putting them in a position where it would be much more difficult. The more difficult the job becomes, then overall in the long term the less qualified and the less able people will actually run for representation, and we'll end up with a much poorer level of government.

**The Chair:** Mr Milne, thank you very much for your presentation here today.

## CANADIAN ASSOCIATION OF FIRE FIGHTERS

**The Chair:** The Canadian Association of Fire Fighters, John Hay. Welcome, Mr Hay.

**Mr John Hay:** Good afternoon. Thank you very much for the opportunity to speak to you today. Firefighter Greg Hankkio is a professional firefighter for the city of Thunder Bay. My name is John Hay, and I'm a firefighter for the city of Thunder Bay, and I've been with the department for the past 14 years. For the last 10 years, I've been co-chair of the joint health and safety committee locally.

Two years ago I was appointed chairman of the Canadian Association of Fire Fighters health and safety committee. My committee represents the health and safety interests of nearly 5,000 professional firefighters across Canada, many of them from Ontario. I am here before you today in that capacity, representing the health and safety interests of firefighters.

My message to these proceedings and to the government of Ontario will have two main focuses: (1) that this legislation has some serious flaws which will make the



profession of firefighting in the province more dangerous than it already is; (2) the inescapable relationship of public safety and the ability of firefighters to do their job as safely as possible. I will be referring to this relationship consistently during the course of my presentation.

Firefighting today is not at all like you see on television or in the movies. The individual hero defying superiors, braving unbeatable odds to miraculously run out of a burning building with a baby in his arms just before it explodes, does not do justice to the profession. The rescue comes from the coordinated efforts of a sufficient number of highly trained professional firefighters who arrive together quickly on appropriate apparatus that is properly equipped.

I would like you to pay particular attention to the previous statement as I will make reference to it again.

You would be hard-pressed to say whether this statement is an argument for public safety or for firefighter safety. That is because you cannot separate the two. As I stated earlier, the relationship is inescapable.

Response times are a critical component of public safety and in turn firefighter safety. Increasing response times with less apparatus, fewer halls or having the remainder of fire crews for a particular apparatus arrive subsequent to the truck will have just that effect.

An increase in response times will mean fires will have progressed and the extinguishment will be much more difficult and dangerous. The chance of survival of victims diminishes drastically in a very few minutes. These increased response times will most certainly be reflected in increased property losses.

The Canadian Association of Fire Fighters has commissioned a study on the effectiveness and safety of crew sizes. The study involved all the initial tasks to perform search and rescue, ventilate and attack the fire. The study will show larger crew sizes on the initial response fare much better, performing the tasks more efficiently and more safely. When I refer to the initial response, that's the first truck showing up with a full crew on it, not waiting for the rest of the crew to show up offsite.

Firefighting as a profession has evolved from bucket brigades to a multidiscipline profession responding to auto accidents, medical emergencies, rope rescues, confined-space rescues, water rescues, and we deal with hazardous materials. That's just to name a few; those are the highlights.

Fire crews must be proficient at all of these and more. This awesome undertaking requires extensive training and practice with your crew to reach the levels of proficiency necessary to perform these evolutions in a safe and effective manner. Inexperienced or part-time firefighters would just not be up to this challenge. I risk offending potential firefighters or possibly volunteers whose dedication and strength of conviction could very well be equal to mine, but the acquired skills necessary would not be there. They do provide a valuable service to their communities, but they do not provide the level of service professional firefighters do.

1530

From a legislative standpoint, were it not for exclusions firefighters are subject to according to the Occupational Health and Safety Act, the working conditions that

may very well result from the passing of Bill 84 as it stands would be illegal in any other workplace in Ontario. It is illegal not to train workers to safely accomplish the tasks they are given. Part-time firefighters would not be trained to safe levels.

The act also requires the employer to take all reasonable precautions to provide a safe working environment. If this piece of legislation were to affect any other group of workers in Ontario, it would be illegal. The government of Ontario is partners with all the stakeholders in the province who are responsible for the delivery of fire service, including the office of the fire marshal, the Ministry of Labour, the fire chiefs of Ontario and the professional firefighters of this province.

This fire service advisory committee produces guidelines which, in lieu of regulations for the fire service specifically, carry the same weight as regulations. This is produced by the government. These are our health and safety laws. Some of the provisions of Bill 84 fly in the face of the spirit, the intent and the letter of these guidelines, to which this government and previous governments were active contributors.

At this point, I'm going to refer back to the key statement that rescue comes from the coordinated efforts of a sufficient number of experienced, highly trained professional firefighters who arrive together quickly in appropriate apparatus that is properly equipped.

The proposed legislation enables municipalities to close halls, reduce responses or supplement an insufficient response with part-timers or volunteers who would show up later. This, coupled with the increased response times, is a recipe for disaster. You may try to point out that the legislation itself does not mandate such changes. The pressure on municipal politicians to cut costs is immense. The cuts in transfer payments and the downloading of responsibilities from the provincial government have created this environment. To think that politicians will not avail themselves of these opportunities is folly.

I can illustrate my concerns quite clearly with a recent event that occurred in this city. A young person had climbed out a sixth-floor window of one of our hospitals. This person could not or would not get back into her room. The person was standing barefoot on a narrow ledge, fingernails holding on to a thin piece of aluminum flashing. A pumper crew, a rescue truck and an aerial platform were dispatched. The 27-metre platform could not reach the person on the ledge. The only available option was to attempt a rope rescue. The high-angle equipment was dispatched, and a crew of four firefighters and a captain were tasked with performing a pickoff and then deciding a course of action once the person was secure, whether to return her to the building or safely to the ground.

There were several factors that made this evolution extremely difficult: This happened at night in the dead of winter, the roof provided no suitable anchors for the ropes, and the person had been out in the cold for a considerable time already.

Because of the extensive training the members of the Thunder Bay fire department receive in high-angle rescue, the crew was able to rig the harnesses and associated hardware in the dark while other members of

the crew, using their experience and skills, solved the anchor problem in short order by tying anchors around the window frames on the opposite side of the wing a floor below. This enabled two firefighters to rappel off the roof and effect the rescue.

There is no way a rescue like that could be performed without every member of that crew being highly trained and experienced professionals who responded appropriately equipped and arrived together in sufficient numbers together.

This particular event is very vivid to me. I was one of the firefighters who stepped off the edge of the building that night. Even though I am very happy our efforts had a positive result, I am more proud of the fact that, though I could not see it, everything was done right and I was going to have a chance to help this person out of difficulty.

Again, I make reference to this statement: The rescue comes from the coordinated efforts of a sufficient number of highly trained and experienced professional firefighters who arrive together quickly in appropriate apparatus that is properly equipped.

Anything — person or circumstance — that reduces the ability of the firefighters to perform their duties as safely as possible places the public in greater danger. Conversely, anything that increases public danger makes the job of the firefighter more difficult and dangerous. This relationship is inescapable.

I urge you to amend Bill 84 in consultation with the professional firefighters of this province, as Premier Harris had promised. Failure to do so will cost lives.

The bill in its present form will hurt and kill firefighters, possibly not today or tomorrow, but it will. Can you go home and hug your children with a clear conscience knowing that you did everything you could to help a firefighter do his job safely? Because if this legislation passes as it stands, there will be firefighters' children not getting a hug.

I'd like to thank you for the opportunity to speak to you today. This concludes my deputation.

**Mr Ron Johnson:** Thank you, sir. I'm going to be very quick so it will give you a chance to answer the question. With respect to the comments you made, "I risk offending potential firefighters or possibly volunteers whose dedication and strength of conviction could very well be equal to mine, but the acquired skills necessary would not be there." A quick question: If as a condition of employment a part-time firefighter would have to meet the same training standards as yourself and acquire those skills, would that satisfy your concern about under-qualified firefighters on a part-time basis?

**Mr Hay:** No, it would not, because part-time firefighters would not be able to attain the skill level required.

**Mr Ron Johnson:** Are you certain?

**Mr Hay:** They would not have the time to do it.

**Mr Ramsay:** Something I really find curious about this bill is this no-strike provision. That really sticks in my craw and I'm sure it does yours. By that you would say they have deemed your business an essential service, but on the other hand they do not make fire suppression mandatory in the bill, so in essence it isn't an essential service or they'd make it mandatory. I don't understand

that. I was wondering if you could come up with any rationale why you're not allowed to strike yet fire suppression is not mandated.

**Mr Hay:** It was probably because it was a very easy thing to do. There is no provision for strike or lockout in Ontario right now. Before this, all the associations in Ontario voluntarily negotiated strike and lockout wording into their contracts, every single one of them. There's never been a labour dispute that ended up in a service disruption to this point. When I first heard about it, my concern was that Bill 84 was going to be so onerous that it might possibly force firefighters into using that option. But we negotiated that away a long time ago and there's never been a disruption of service. I really am at a loss to know why they brought that out, specifically right at the beginning.

**Mr Ramsay:** It's kind of a slap in the face, isn't it?

**Mr Bisson:** Thank you, first of all, for a very powerful presentation. You brought that together in both technical and personal terms that I thought quite helpful.

Before I get my question in, I guess I have to say to Mr Johnson and other members of the committee that we should take the time to go to our firehalls. A lot of the questions we're asking here can be answered if we'd sit down and talk to the professional firefighters in our full-time firehalls. That's what I did. That's what I've done over a period of time and I found it useful.

**Mr Jordan:** Don't waste your time.

**Mr Bisson:** It's not a waste of time. My Lord.

**Mr Jordan:** It is a waste of time. We know more about our firehalls than you do. You don't even know where they are.

**The Chair:** Order, Mr Jordan. You're intruding on Mr Bisson's time.

**Mr Bisson:** I rest my case.

The question I have for you is simply this: What is the exclusion in the act that you refer to, what is it there for and how does it affect firefighters' rights?

**Mr Hay:** Firefighters in the province right now cannot refuse unsafe work under an exclusion in the Occupational Health and Safety Act, section 43.

**Mr Bisson:** Why is it there? What is it there for?

**Mr Hay:** I guess originally, if it wasn't there, I would be able to refuse to go into that burning house. That's probably the reason it is there. Firefighters have long struggled for different inclusions in the act and there's presently some committee work going on with this fire service advisory committee to get a firefighter regulation.

**The Chair:** Gentlemen, thank you very much for your presentation today.

1540

#### LUNG ASSOCIATION, THUNDER BAY

**The Chair:** The next presentation is the Lung Association, Thunder Bay, Kathryn Forbes-Kaipio. I know I did a very bad job in pronouncing your name, Kathryn. You might be able to assist us.

**Ms Kathryn Forbes-Kaipio:** It's a good Finnish name. I am appearing before you today wearing two hats. First, I would like to speak with you as a private citizen. I will stray from what is printed here for a moment. As a private citizen, residential fire has struck my family



three times in my lifetime, causing the death of my sister recently. After my first perusal of this bill, I felt personally moved to do something that I believe in. I'm not politically inclined with this. I'm extremely inclined in terms of a moral responsibility to come forward as a private citizen to urge you to take another look at some of the parts of this bill. As a member of the Lung Association, I will explain that later.

Thank you for coming to Thunder Bay to hear our deputations. I hope our weather will be kind to you here and that the deputants so far have been kind to you. I got a little frightened when I heard the shouting back and forth a few minutes ago. I have had the pleasure of speaking with a standing committee only once in the past and it was to the social development committee studying what is now known as Bill 119, the Ontario Tobacco Control Act, on behalf of the Lung Association. Today I speak to you with no less passion, as this subject is important to me as an individual and also from my professional perspective.

It is extremely important that you, the members of the government and all the members of the provincial Legislature, understand that in this proposed legislation there are many areas that leave the bill open for problems to arise in the future. Overall it is a good document and I will later highlight some of its positive aspects, but I reiterate that there are areas that require in-depth analysis, as the impact of the bill's current position could result in serious negative outcomes for the citizens of Thunder Bay and the firefighters themselves.

It is premature to consider the passing of this legislation. We do not want imposed upon us legislation that could pose hazards for us in the future. I think we all can relate to that when we see that there are bills — and one I can relate to very quickly, because again it's something that I've had to deal with in my professional life, is the Mental Health Act. It is something that leaves people with their hands tied because it's a piece of legislation, and until that gets changed, lives are lost and people's lives are in incredible disarray. So prior to making any legislation, I really urge you to consider the passing of this legislation so we won't have to deal with problems in the future.

I must admit that this is not an area of vast knowledge for me. However, on reading Bill 84 in its present condition, I believe that public safety and firefighter safety will be ultimately compromised because of bureaucratic decisions made by cash-strapped municipal politicians who cannot know the countless repercussions their decisions will cause long after they are made. We all know that in these last few years of downsizing, re-engineering and offloading of provincial responsibilities on to municipalities, Band-Aid solutions are found for short-term remedies, but the long-term issues are fraught with difficulties. I believe there is no long-term vision for the future with the changes to the provisions that are contained in Bill 84 as it is today.

Has your committee effectively consulted with the professional firefighter associations regarding the revision of this bill? I think not. After reading it, that's my personal opinion. There are numerous concerns on behalf of firefighters that should have been examined, discussed, and

they would be obviously be reflected in this new bill. I find the wording of the changes in this bill ambiguous and open to various interpretations which will undoubtedly lead to confusion and possibly an adversarial system of labour relations in the future.

Presently, my interpretation of the act provides for a highly successful and cooperative climate in labour-management processes. I believe it is dangerous to consider the following. These are my concerns.

The funding provisions, or lack thereof, for the mandatory fire prevention and fire education programs: I believe in the fire education and prevention programs, but the costs of these mandatory programs have been left to municipal governments to fund. I am concerned that current budget allocations for fire suppression will be shifted over to fire prevention, thus cutting back on emergency capabilities. Does the committee care how the municipality finds these funds or does the committee feel that once it is no longer a provincial responsibility it is also not a provincial concern? There must be some plan for funding in place before this burden is heaped on the municipalities.

We have heard countless horror stories about the privately owned fire services. Will Bill 84's lack of clear direction, subsection 41(1), be responsible for municipalities also offloading fire services to private enterprise? Again, the recipients of fire services, the taxpayers, are submitted to further jeopardy. Private enterprise will be permitted to submit lowest-tender bids to deliver fire protection to the residents of Ontario. We know this system has failed miserably in the United States, where only 0.5% of fire services are currently in the private sector. The bottom-line concerns of a corporation should not have any bearing on the level of fire protection that a citizen enjoys. A bill that allows for dollars to be placed in importance over citizen safety is cruel and irresponsible.

This bill also allows for the coupling of police and fire services. It allows for it, I think. It doesn't seem to me that it directs it, but it leaves it open for the coupling. How can two very specialized services be combined into one? How can we expect police officers to execute the often wordless precision work performed by highly trained, highly experienced people who have their work so finely tuned that we rarely hear of such things as failed rescues or slow response time? We've heard that in Kalamazoo, Michigan, the fire and police services were merged and it just didn't work; 80% of the firefighters lost their jobs and fire services deteriorated badly.

Under this bill, there is no requirement that firefighters be full-time. Rather the definition of "firefighter" would appear to include both full-time and part-time firefighters. We now have a common training standard for firefighters. I believe this standard will be in jeopardy where part-time employees are concerned. Now the minimum-staffing clause states that, for example, there are four firefighters on each pumper, and where there is a major emergency and additional personpower is needed, experienced firefighters are called in on an overtime basis. I believe this is still possible with Bill 84; however, if part-time employees are part of the staffing plan, I doubt that the employer will continue to call in the experienced



overtime staff but rather will cut costs and send in the part-time employees.

I cannot believe that people who do precision teamwork that requires strong, constant bonding and communication can feel secure and safe in their work when they are joined by part-time employees, who do not fit into the collective mind of a skilled, first-class firefighting team that is capable and ready for any emergency.

1550

**The Chair:** Excuse me, ma'am. You only have five minutes left, and you're not going to get your thing on record unless you speed up.

**Ms Forbes-Kaipio:** All right, I'll speed up.

Additionally, about 60% of a firefighter's work is in non-fire-related emergencies which include: auto extractions, medical emergencies, defibrillations, high-angle rescues, hazardous materials spills, ice water rescues, gas leaks and explosions, broken power lines and confined-space entries. How can a part-time employee be armed with the finely honed skills expected of a firefighter in these situations? I can hardly believe we will see the same speed, experience and high level of teamwork from a fragmented team. Currently, a skilled full-time team begins a trained mindset that is on the nature of the call as soon as the alarm goes off. There are no second chances in firefighting. Who could, with any conscience, allow for the possibility of a failed rescue attempt because of a lack of a finely tuned team?

Finally, I have an enormous problem with the potential for tampering with the current bargaining process. Now we enjoy, and it is our right to enjoy, a high level of safety, a high level of response time and a high level of safety for our firefighters. Bill 84 allows for the creation of a new middle management that could very possibly be manipulated by the employer.

The creation of a middle management allows — this does not mean it dictates or approves — for discretionary exclusions from the bargaining unit. Many firefighters will be turned into midlevel managers. It seems that this move would create a process that would be at odds with the general trend in both the public and private sectors, where middle manager positions have been eliminated or greatly reduced. Is there a hidden agenda here? Why is the bill so loose? I see this as leaving a dangerous gap in direction for the employer. Imposing a management level also separates the team. How often do we hear about management and non-management working side by side? Hardly.

As this bill raises the possibility that firefighting may be transferred to private concerns, it also raises the possibility that firefighters who are employed by private sector organizations may lose their current bargaining rights. The prohibition on strike action section again makes me question the reasonability of the authors of the bill. Traditionally, firefighters have not exercised economic sanctions and there has not been in place any statutory provision excluding them from exercising the right to strike. The inclusion of this section arouses my curiosity with regard to the vision of the authors for the long-term future of Ontario's firefighters. What do they see down the road for our firefighters that they now feel it is necessary to impose a prohibition on strike action?

Will this bill leave our firefighters like sitting ducks, without defence, when they'll need it most?

Part IX of the bill contains very significant changes in the area of firefighter employment and labour relations. I'm asking that the committee take this proposed piece of legislation back to consultation with professional firefighter associations and, in a climate of trust and good faith, negotiate the amendments that are posing hazards as soon as possible.

I applaud the bill with regard to the mandate that provides for fire education. As a health educator with the Lung Association, I work extensively with people who, due to their severely damaged and diseased lungs, have great difficulty in breathing, many of whom are on oxygen. These people, our clients, are so very vulnerable due to this great disability that they cannot run or even walk quickly; many can only walk a few steps at a time without having to stop and regain their breath.

Good, proactive fire education will help prevent fires in homes where the elderly and disabled live, will assist less able people to learn and prepare for an outbreak of fire and, where so many of the elderly still smoke tobacco products, will educate them about that specific and common cause of house fire and preventable death.

The Lung Association and the firefighters are partners in this community for public safety. So many of our issues interface, for example, dangerous chemicals, indoor air quality, carbon monoxide poisoning and cigarette-related fires and deaths.

In closing, I ask you sincerely to slow down the legislative campaign for this bill. Go back and adopt a new and effective consultation process with the associations with the bottom line being what it should be: fire safety.

I am asking Mr Harris to listen to his people. Daily I applaud Mr Harris and the courageous moves he and his government have taken to improve the economic stability of this province, but I cannot support this bill, and I believe he must consider revisiting these amendments with the people who give us that only, very precious chance of surviving so many life-threatening situations: our professional firefighters.

Thank you for your time, and I thank you in advance for the right decision I know you will make with respect to amending this bill.

**The Chair:** Thank you very much, Ms Forbes-Kaipio, for your presentation here today. Perfect timing.

Our next presenter is Mary Roy.

MARY ROY

**The Vice-Chair (Mr Ron Johnson):** Good afternoon, Mrs Roy.

**Mrs Mary Roy:** Thank you for allowing me to speak here today, Mr Chairman and members of the committee. I come before you first as a concerned taxpayer, mother, wife and daughter worried about the safety of my family. I am fortunate to say that I have never needed the fire department to respond to my home, but I live half a block away from the Hodder Avenue firehall and see the trucks responding to calls on a daily basis. I became the spokesperson for a neighbourhood group called the Hodder Avenue Citizens for Safety, studying and re-



sponding to other safety issues. The sentiments of many of these residents are also reflected in my comments here today. I have no personal vested interest in the implications of this bill, no family members employed in this profession, only a concern for safety.

From what I have read on this issue, the critical components are response time and the quality of the staff responding. When every second counts and my life is in the balance, I want to know that help is on the way immediately and that the professionals who arrive at my home or accident scene are fully trained and ready to respond to my emergency.

If the municipality has the power to include part-time firefighters, how in the world will they be adequately trained? In the 1990s, there are many citizens working more than one part-time job because of a lack of full-time employment. This is a fact of life. I doubt that a part-time firefighter would be in a better financial position than most and wouldn't have to find other work. When my call goes in to 911 for help, do I want to depend on somebody who has to leave his present workplace, in whatever part of the city that may be, and reach my emergency as best he can? Do you? How can this possibly be safe?

I expect this bill will provide me with unreliable protection for my health and safety and that of those I love. In speaking to Fire Chief Hamer about the extensive training required by firefighters and their ongoing training as part of their regular duties, I can't imagine how the province expects part-time personnel to be trained sufficiently in the first place and have the time necessary to maintain an ongoing training schedule.

1600

The other concerns I want to express today come from a different mindset in that I have put my name forward to run for city council in the November election. Is it really the opinion of those writing this bill that the power to allocate taxpayers' dollars to fire prevention and away from fire protection should be in the hands of municipal leaders who do not have knowledge, experience or expertise in this complicated field?

In my effort to be a responsible candidate for the election, I have reviewed budgets and personally interviewed all 34 department and division managers in this city, including the mayor, several aldermen and Fire Chief Hamer. Every city manager will tell you, as they did me, that money is very tight. Our city has gone through a major reorganization, eliminating 40 middle management positions. It seems that a totally contradictory approach is being taken in this bill, creating more middle management positions. I have no idea why you see this as an improvement, and other taxpayers concerned with wasting our tax dollars agree with me on that.

Every city department will be facing the same challenges next year of providing less services or raising taxes to a level that is unaffordable. There will be a great deal of public pressure on the municipal leaders to make these decisions. This is the one line I highlighted, and I hope you all notice that: There really is no price you can put on safety.

I love the way the province continues to enact legislation that puts more responsibility on the municipality

without providing my provincial tax dollars to fund the changes. It worries me that after attending many, many city council meetings, decisions to privatize are being considered strictly on a financial basis. Fire protection is an essential service — I hope you notice I have that in bold letters — in my opinion, that cannot be compromised. I hope and pray that every municipal leader in this province feels the same way. I have seen poor decisions made in this city, with the most important consideration simply being dollars and cents. There is a great deal of pressure from taxpayers to spend their tax dollars wisely, and that is your responsibility as well.

In asking that you consider the challenges and questions brought forward in these hearings and respond in a responsible manner, please remember that most of us are intelligent, safety-conscious people. We take the precautions to keep our loved ones safe. We have smoke alarms and a fire extinguisher, but accidents will always happen. I also live on a main arterial roadway where dangerous goods are trucked past my front door on a daily basis. This puts me at a risk I can't control. I want to sleep at night knowing the professionals are there and able to respond in my time of need. Our lives are in your hands. Thank you.

**Mr Ramsay:** Thank you, Mary, for making a presentation and congratulations for deciding to run for municipal politics. I wish you well.

**Mrs Roy:** Thank you.

**Mr Ramsay:** You bring up some very good points in your presentation. I wanted to talk a little bit about some of these. I share your concern about the fire prevention aspects of this bill versus fire protection. While this bill is excellent when it comes to mandating how important fire prevention is — I think we all agree that if we could do more fire prevention we could probably stop some more fires, though, unfortunately, there are always going to be fires because of accidents and other circumstances — by not then mandating fire protection equally, it is going to put some pressure on a municipal politician. You're somebody who is thinking of being one. I'd like you to expand on that and what sort of pressure you think that's going to put a municipal council under that already has a fire department and has both suppression and prevention, yet one is mandated and the other isn't and you've got shrinking dollars coming in.

**Mrs Roy:** Basically what you're doing is leaving the power in the hands of people who may not understand the roles of both sides. I don't know what it's like in the cities you come from, but on a weekly basis I attend city council meetings and I see the amount of paperwork these people have to deal with on a weekly basis and make decisions on. I just don't know, even if the information is there, that they'll all absorb it. I don't know that all the councillors, honestly, have ever visited a firehall recently, as I did, or spoken to our chief or realized the other roles that the fire department do when they're not suppressing a fire, when they're rescuing somebody off the ice. Those tend to make the media, but I'm not sure that city council has the knowledge to make those decisions.

I worry about them taking it away from suppression. That is where we need it. The education is always going

to be an important aspect, but I think you may be putting the power in the wrong hands.

**Mr Ramsay:** The other area that you talk about too of course is, when they mandated this prevention aspect of fire safety to the municipalities, it's sort of, unfortunately, a broken promise of the Harris government. Mike Harris said in the Common Sense Revolution he would not mandate any new service provision to municipal government without providing the revenue. In this case, as you know, with all the downloading it looks like there's going to be less revenue for municipalities, which is going to make your potential job a lot tougher. But here you have a new service that's now mandated. It's doubly why I salute you for what you're going to do, because being a municipal councillor in the next term is going to be a lot harder than it was in the past, because of your new responsibility.

I don't know if you want to comment on that. There may not be enough time. But I wish you well.

**Mrs Roy:** I agree with what you're saying. I have had my psychiatric evaluation; I'm up for the job.

**Mr Ramsay:** Luckily we don't have to have those.

**Mr Bisson:** First of all, I'd like to congratulate you for your decision to run for municipal politics. I can assure you politics is an honourable profession, unlike what some people would like to make it. Good things can come of municipal and provincial and federal governments when people decide to exercise their democratic right, not just to vote but to get involved and to be involved in those things that are a passion to us, in this case public safety.

I want to ask you the question around the whole question of who should have the responsibility for setting the standards, because it's a problem that's not new just with the creation of this provincial government, in regard to offloading some of the responsibility for the standards of fire services, to a certain extent, to municipalities by some of the provisions of the bill.

But we are seeing at a national level a government that is saying we are going to move from the Canada assistance program to pay for health care, where you are able to enforce standards in health care across the country, to a block transfer, where provinces can to a certain extent really diminish those standards that are set by the federal government in the Canada Health Act. We're seeing that in housing, we're seeing it in other things, where the federal government is offloading its responsibility to the provinces and thus lowering the standards.

Is there still, in your mind, a responsibility for the provincial government to set the standards necessary for things like fire services, and what level of services should be offered to the municipality? Should the province set those standards and, if so, to what degree?

**Mrs Roy:** I believe the reason I pay provincial tax dollars is that this is an essential service and that is the service I expect from the province. I don't know how we compare to other cities, but there are smaller municipalities that may be worse off than us. Certainly if the province wants to download all these things on us, at least give us the money to do it.

**Mr Bisson:** My big fear with the downloading and the offloading of responsibility to municipalities when it

comes to all kinds of services — fire services, welfare, housing, you name it — is that once you start throwing that on to municipalities you can end up in a situation, and probably will, where municipalities will ratchet down their services and attempt to save money because they haven't got the dollars to pay for it, but more important, as a way of being able to compete with each other when it comes to offloading each other's responsibilities, whether it be to welfare recipients or whatever it might be.

Do you think that the direction the government is going in offloading all of this stuff on to the municipalities could lead in the end to municipalities saying, "I can't afford to pay for the welfare costs any more; I'll ship them off to Timmins or Sudbury," or wherever it might be?

**Mrs Roy:** I think we actually have probably a lot to lose, being the main hub of northwestern Ontario. I'm sure if there are problems in Nipigon and they can't handle their welfare cases, they're going to end up in my backyard and I'll be paying for them.

1610

**Mr Gary Carr (Oakville South):** Thank you very much for a very fine presentation. I wish you well in your endeavours in the political field. I agree with a lot of people who feel that a lot of our local politicians, and we've got many in the Legislature from all three parties, sometimes make the best decision. As our friend Hazel McCallion always reminds us, if the federal and provincial governments had been run by governments of all political stripes as well as municipalities had, we would have been a lot better off. So I encourage you to get out there and be part of that process.

One of the arguments that people have used, and it keeps coming back when we talk about the province having responsibility, is why would somebody in the community, like yourself, who has friends, family, neighbours in the community, care less about the safety than the provincial bureaucrats down in Queen's Park who would have overriding responsibility?

I think that's where people like Margaret Marland, who has come from the municipal sector, and all members have, there have been many — they know that those people care. I'm under no illusions. There are going to be tough choices, very tough choices, because municipalities are going to have long-term care, social assistance, just like the tough choices at the federal level in health care and the province in education. It's not going to be easy, but I honestly believe there are going to be good decisions made by good councils and that most of them are responsible.

What do you feel will change here in your area? If the bill passes as is and if there hasn't been privatization, if there hasn't been part-time, why do you think that all of a sudden things are going to change because this bill passes and that these municipal politicians would then jeopardize safety by entering all these areas? What would change, in your estimation?

**Mrs Roy:** Because I have already dealt with council on other safety issues that our Hodder Avenue group has brought to them. Hopefully we will see some major changes in November, but the present council's priority



is dollars, not safety. I worry that the people who are sitting in council now — and I'm sure I'm going to hear a lot about this as I campaign — have the power to think of money over safety, and they have done in other decisions.

If it's just a safety issue, you have to have the right people in place. I still feel that is your responsibility, and the privatization does worry me. I have also spoken to Chief Chambers, who is head of protective services as head of the police and the fire department. Privatization is not something that is out of the question in this city, as a tax dollar saving. I think it's a very scary proposition. Our present police chief, who is head of protective services, would love to amalgamate the two departments. It's something I vehemently oppose as another threat to my safety.

**The Vice-Chair:** Time has expired. Ms Roy, thank you very much for your presentation. Good luck in November.

#### TED MILL

**The Vice-Chair:** The next presenter is Mr Ted Mill, please. Good afternoon, sir.

**Mr Ted Mill:** Thank you for allowing me to air my opinions on this very important matter, because although I've been out of the fire service since 1988, I still have an interest in fire department matters and in public safety.

Though it addresses the fire service, this particular act is of vital importance to every resident of Ontario and indeed everyone who even passes through the province. It will affect you, your family, your friends, in the home and school, in church or at work, because accidents and fires can happen at any time, anywhere, and in all these cases, you will need the services of a highly trained, professional, full-time firefighter.

My name is Ted Mill, and though I haven't had much to do with the legal documents, this is my face value assessment of parts of Bill 84 and its effect on the fire service of Ontario.

A little bit about myself: I sailed for a few years when about 15 years old on a merchant ship. I worked in the shipyard as a steel fitter. I put in three years in the regular army as a gun mechanic, then spent a number of years in the militia and until recent years in the supplementary ready reserve. Much of the foregoing helped immensely when I joined the Port Arthur fire department in 1959. I worked through the ranks as a lieutenant, captain, deputy chief and, until my retirement in 1988, as chief of the Thunder Bay fire department.

I stated the probable effects of this bill and that everyone will feel some of the repercussions that will be sure to follow if it is passed. The most logical question is, why? You want to take a bill, the present fire act, which, though it has a few flaws, is working quite well; you want to scrap it and come up with some obviously flawed bill called Bill 84, a bill that along with the glaring shortcomings, will also introduce a whole mess of problems that will arise when it goes, if it goes, into operation.

As I said, there are weaknesses in the old fire act, but they could be fine-tuned without the scrapping of the

whole system. I learned a long time ago that if a machine is working okay, apart from service and maintenance, leave the darned thing alone. If it can be improved, do it, part by part, but don't discard everything, the good, working parts along with the bad.

With the time available, I will discuss a few points that I feel could do a lot of damage to the fire service, with the consequent effect on the general public.

First of all, the municipality's choice of fire services, section 2: The municipality must establish a fire education program and may establish a fire department suppression unit. This suggests that if everyone is taught the fire prevention rules, there will be no need for firefighters and you won't need a fire suppression team.

The fire prevention staff of the Thunder Bay fire department has been educating the public for years with inspections, lectures, demonstrations, pamphlets. They visit industries and schools and hospitals and, though it no doubt has helped, we still get fire accidents and deaths. No matter how well people are taught, there's still the human factor.

I'd like to ask everybody in the room, for example, have you ever cruised a stop sign? Have you ever driven over the speed limit? Have you ever passed on a solid line? You all know the Highway Traffic Act and what could happen when you do things like that, so why do you do it? You also know that you should check your smoke detectors; you know the properties and dangers of gasoline; you know that leaving matches and lighters where children can get them is a dangerous thing to do; and you know about the storage of flammable materials. You know these things, but here are a few things that have happened.

A young fellow was repairing his motorcycle; he was washing the parts in gasoline. Where was he doing this? In the living room of his apartment.

Two young teenagers were looking for a job and they were given a job to scrub a floor of a warehouse below ground level. They gave them a couple of pails of gas and said, "Go to it." They barely escaped with their lives.

A fellow was painting. He did all his painting and he took his brushes and he was washing them off with a couple of gallons of gas. Then he dumped the gas down the sewer. The fumes came up next door. We went in there with a sniffer and we found that the explosive range was all through the basement, into the house next door, never mind the place where it started. Who was the fellow who did this? A professional man, a medical doctor.

A six-year-old fellow, a little guy, had just been given a new pair of white running shoes. His mother told him to stay away from the street. They were oiling it. Of course, the little guy has got to get into the tar and the next thing you know he's got Bunker C all over his white running shoes. But he knew his Dad had stored gasoline in the basement for his chainsaw, so downstairs he goes. He's scrubbing the white shoes off with the gasoline, and 15 feet away is a gas furnace. There was a flash. The young fellow was burned pretty badly, and after the smoke cleared all we found of the white running shoes were six or eight little eyelets on the floor. Everything had gone.

Another little fellow was known to play with matches and lighters, which should have been kept away from him. When the fire occurred, we couldn't find him; he was lost in the fire.

These things occurred in spite of knowledge; people knew. In all cases, it was a fire suppression team that responded, not the fire education officers. Education is important, but suppression is vital.

#### 1620

So many unforeseen things can happen, for example, spontaneous ignition — we're aware of it, yet we're not aware of it; we don't practice things that will avoid it — in grain, in rags, in mops, and even the action of low-temperature pyrolysis, a long-term thing where suddenly buildings will erupt for no apparent reason.

A station wagon was parked on the street and sunlight shining through the window hit a lamp lying on the car seat, which hit a reflector and was focused on a blanket in the vehicle. The vehicle was destroyed. The children who were in the vehicle got out, no problem.

A kitchen fire occurred because a chap decided to fix his coffee maker. He decided to change the fusible link with a piece of copper strip — substantial damage to the house.

Then of course there's lightning, which occurs all the time; it's quite common in the city. We've had lives lost from that cause.

With all this, we're also responsible for industrial accidents. There are many factors involved with these things, so they're hard to predict and hard to defend against.

In the shipyard, there were three workers working down in the ball thruster compartment of a ship and there was a leak in an oxygen line, an O<sub>2</sub> line. The oxygen, because of the cold temperatures that morning, we assume was raised to something like about 64% oxygen, over the 21% that's normal. A fire occurred and three people died a terrible death in a matter of seconds.

Two chaps were working with oxyacetylene equipment in the country. They were reasonably conscious of the danger, but as with a lot of accidents, various things were involved. There was an explosion; one was dead and one injured.

A ship in the harbour came in and there was a flash fire aboard — 16 people dead.

A grain elevator on the waterfront suffered a \$10-million loss in product and in the structure. The factors included grain dust explosion. That was only one of the factors involved, of course.

All these were subject to information and inspection, and they still happened.

Then of course we come to arson, the set fire. That's one of the more dangerous types of fire we encounter. Some of the devices we encountered: flammable liquids; punctured gas lines; multiple starts. At one fire was found a stick of dynamite complete with black clover fuse, detonator and igniter set, all ready for us. It's beyond the reach of fire safety instruction, isn't it?

The Thunder Bay fire department has an excellent fire prevention team, and what they do are some of the following: routine inspections of commercial, industrial, institutional buildings; public information through talks, lectures, demonstrations at schools, hospitals, commercial

and industrial; teaching the use of first aid extinguishers; fire escape plans; and information about industrial processes and chemicals.

They're a source of information for the fire suppression teams with fire routes, standpipe and hydrant information, hazardous buildings, areas and processes. They also assist in fire investigations with the fire marshal's office. They assist with hydrant and standpipe flow testing, alarm system surveys, home inspections on request, and so on.

There's no doubt that due to their efforts fire and accident frequency is reduced, but we still get fires and accidents. The fire suppression team are the first line of defence against the ravages of fire, but without the cooperation of the prevention, mechanical, training and clerical divisions, their job would be quite difficult. It's a team effort.

Let's look at another part of the act: the use of part-time firefighters.

**The Vice-Chair:** Excuse me, sir. I'm not sure how long your presentation is, but you are down to three minutes, just so you know how much time you have left.

**Mr Mill:** All right, sir, we'll do the best we can. Part-time firefighters and volunteer firefighters have some things in common. Through no fault of their own, their training and expertise level is often not equal to that of the professional full-time firefighter. I have worked with volunteers both in training and in actual emergencies and have nothing but respect for them. Many would be full-time firefighters if they had the chance.

So what's the problem? Training is vital to all firefighters. It takes many forms, such as formal training sessions in the professional fire department every day; in volunteer fire departments, it's usually once or twice a week. Every fire emergency, even a minor fire, is a training session. Vehicle maintenance and upkeep, even washing the vehicle, is a learning experience, because you learn the location of equipment and the condition it's in. Area familiarization, street and hydrant location, are done constantly. Post-fire assessment: After most fires, there's some formal and some informal talking about what happened, what did we do right, what did we do wrong, and so on. Of course the firefighter is quite adept at talking shop; it occurs at lunch and coffee, but again it's a learning experience.

Incentive in training is another thing. Of course training leads to promotion. This particularly applies to professionals. They're going to take a lot of interest in training and training programs. The part-timer and volunteer is not exposed to all this; the professional is, and much more.

Apart from training, what are some of the problems? The physical condition: We don't have any control over the volunteer or the part-time firefighter. He may have a job that doesn't keep him in good shape, and if he's not in good shape, he won't last long at a fire.

Response times to an occurrence: First of all, they may not locate the emergency; they're responding on their own and they may not even find where the darn thing is.

Overzealous response by the part-time team: They're pumped up with adrenalin and this may result in danger-



ous driving. They do not have the protection lights, siren or distinctive colour, shape or size of emergency vehicles to protect them.

The condition of the responder: He may be ill, he may be tired, he may be on medication or under the influence of alcohol, but he will still want to respond if the phone rings.

The late arrival will not be aware of fire plans or whatever, fire conditions, casualties etc. Other than holding up the hose, he really wouldn't be too much use.

Because of these factors, a little bit too late is the response.

When a fire recruit is exposed to fires and the discipline around the fire station, he develops a difference: He develops comradeship, a pride in his unit, a trust in his fellow firefighters, and he earns the trust of his comrades. Morale is high, and because of the high morale he'll participate in projects and functions for the fire department way beyond the scope of normal job requirements. This spirit is evident in Thunder Bay at least. They formed a fire rescue team. They formed a high-level rescue team. They constructed a foam trailer to carry AFFFATC to tank farms and large chemical and gasoline spills.

**Mr Bisson:** To carry what? I didn't catch that.

**Mr Mill:** AFFFATC, a foam concentrate used on flammable liquid fires.

They devised a makeshift fireboat system in the harbour, two of them, as a matter of fact. They developed an information film called Oxygen, The Friendly Gas — this was as a result of the problem in the shipyard — and with the cooperation of channel 7, occupational health and safety and Canadian Liquid Air, this film was made and is now distributed all through the United States and Canada as a warning of oxygen enrichment atmospheres.

**The Chair:** Mr Mill, your time has elapsed, I'm afraid. Can you wrap it up? I'll give you 30 seconds more and that will be it.

**Mr Mill:** All these different things the fire department does are a reflection of pride, esprit de corps and morale of the department, something Bill 84 in its present form will surely destroy or dampen.

I have a little comment here, something to think about. I don't want to scare anyone who's flying. However, due to similar cost-cutting by the federal government, they have reduced the size of the CFR crew at Thunder Bay airport from three people to two people or even one man. Picture one or two firefighters trying to evacuate and rescue over 100 injured passengers from the flames of a pranged-in DC-9 or 737, or perhaps 70 or 80 from an F-28 or a Dash-8. They can't do it.

My final —

**The Chair:** That was your final, Mr Mill. Thank you very much for coming today to assist the committee in its deliberations.

1630

#### THUNDER BAY PROFESSIONAL FIRE FIGHTERS ASSOCIATION

**The Chair:** Our next presentation is from the Thunder Bay Professional Fire Fighters Association, Mr Ron Gorrie representing them. Welcome, Mr Gorrie.

**Mr Ron Gorrie:** Thank you, Mr Chair. I'll just wait till my helper gets the TV warmed up and I find my glasses — getting old. Good afternoon. My name is Ron Gorrie. I am the recording secretary of the Thunder Bay Professional Fire Fighters Association. With me is Mr Les Newman, the first vice-president of the Thunder Bay Professional Fire Fighters Association. We'd like to take this opportunity to express the concerns and viewpoints of the members of this association with respect to Bill 84.

Back in the spring of 1995, candidates contesting for provincial election were interviewed by this association and others. I'd like you now to hear the viewpoint of one very prominent spokesman for a party.

*Audiovisual presentation.*

**Mr Ramsay:** Mike Harris was such a young-looking man there.

**Mr Gorrie:** The pressures and tensions of office.

We would venture to say that these words are clear and concise: Thorough consultation and fully costed changes prior to introduction of legislation.

If the government of Mike Harris had thoroughly consulted professional firefighters prior to introducing Bill 84, it would have understood the importance to public safety of a timely, efficient and competent emergency response. Instead, Bill 84 permits and encourages persons partially trained and working in locations remote from firehalls to respond in a haphazard manner to emergency situations. Response times will increase, delays at the scene of an emergency will occur and errors in tactics will all contribute to increased public danger. It goes so far as to actually permit fire-for-profit agencies.

If the government of Mike Harris had consulted firefighters, it would have understood the necessity of teamwork. There are a great many reasons why firefighters enter into dangerous situations knowingly while others are exiting; teamwork is one reason. Confidence is built and reinforced through training, experience and time spent together as an identifiable unit. This very essential aspect of delivering fire service is diminished as Bill 84 advocates the removal of essential team leaders and permits the inclusion of part-time personnel into the team.

If the government of Mike Harris had thoroughly consulted professional firefighters, it would have understood that professional firefighters endorse and for many years have called for education and prevention enhancements. It would have further understood that education and prevention are not the ultimate means to successfully protect the public from all the dangers that fire departments and firefighters respond to.

Bill 84 states to citizens that through the avenues of education and prevention, necessary personnel that deliver suppression activities can be reduced. We the professional firefighters of Thunder Bay say to you that not all the literature or classroom hours affordable to municipal governments will remove a trapped person from a wrecked automobile, climb down the side of a hospital or stop up a hazardous spill.

If consulted, firefighters would have advocated that the costs of education be borne by the Ontario fire marshal's office. Otherwise, the costs of bearing these new mandated services will come at the expense of suppression because of municipal governments' already tight dollars.

We submit further that Bill 84 is flawed in that it fails to include provisions that would go to great lengths to enhance the abilities of fire departments to deliver services to the public. If the government of Mike Harris had consulted professional firefighters, it would have an understanding of all the many services fire departments and firefighters provide to the public. Bill 84 purports to enhance the delivery of fire safety to the public, yet it fails to provide the very basic component required to provide that safety, namely, mandatory fire departments.

If the government of Mike Harris had thoroughly consulted professional firefighters, it would have understood the importance of responding with a crew of firefighters of sufficient size to immediately commence interior rescue and attack activities. It would have been told that the Ontario fire marshal deems that a minimum of four fully trained and equipped firefighters must be onsite in order to start to perform these various activities. Without sufficient personnel onsite, firefighters will be compelled to attempt rescue with less than adequate manpower or to do nothing, just stand there and wait for people to arrive. We submit that neither scenario is acceptable. Bill 84 fails to address the vital aspect of minimum crew sizes.

If the government of Mike Harris had consulted professional firefighters, it would have been told that many fire departments do not have sufficient equipment to do the job. Firefighters are compelled to rappel off buildings when ladders would work but ladders aren't purchased by municipal governments, despite recommendations of chiefs. Bill 84 fails to include language mandating minimum equipment standards for fire departments.

If the government of Mike Harris had thoroughly consulted professional firefighters, it would have been told of recommendations made by coroners' juries, recommendations made in order to enhance public safety and avoid situations that were proven to lead to the death of residents of this province. It would have heard of the importance of sprinkler systems, minimum response times, man-down alarms, a minimum number of firefighters entering buildings, mandatory fire departments, minimum communications capabilities and much more. Bill 84 is silent in all these areas.

If the government of Mike Harris had thoroughly consulted professional firefighters, it would have understood that in the opinion of the Ontario fire marshal, the citizens of this province presently enjoy one of the best, if not the best, fire services in the world. The fire marshal is on printed record stating that. The government of Mike Harris would also have learned that the public places a very high value on the service presently provided and has no desire to see that service compromised by reductions.

This association conducted a public awareness poll this past summer, and we've included the results of that in the back of your brief. The results of that poll stated that over 95% of the residents of this city do not wish to see any reduction in the capabilities of the Thunder Bay fire department. Some 50% of those respondents freely offered comments that the chief of the Thunder Bay fire department should be independent of the police chief and that he should have the right to freely express his viewpoint with respect to the fire department and the delivery

of public safety services by that fire department. As an aside, just today our fire chief was gagged. He cannot come before you today and deliver his opinion on what Bill 84 should or should not do. Bill 84 doesn't give that power to the chief.

The members of this association have also gathered petitions. Right now we have over 9,300 signatures — I'd ask you to change that figure in your brief — requesting that the Ontario government not implement portions of Bill 84 that will jeopardize their safety.

Firefighting is not an area of public safety that can tolerate change simply for the sake of change. Ill-founded changes will only be hazardous. Correcting these errors after the event has happened will be too late for those innocents paying the price for political interference and meddling.

Mr Harris's second pledge, that any changes would be fully costed prior to introduction, also has not been kept. The members of this association state categorically that the true costs of Bill 84 will be increased death, increased injury, increased heartache and an overall decrease in the level of services presently provided by fire departments across this province.

Bill 84 is flawed. It does not do what it states it is supposed to do. The legislation, as written, will decrease public safety with respect to fire department responses. As an aside again, this committee has heard in Toronto that there is widespread opposition to Bill 84 in every part of the firefighting community. As you've heard, many volunteer firefighters are critical of Bill 84. Many chiefs are critical of Bill 84. Professional firefighters certainly are critical of Bill 84. Medical professionals are critical of Bill 84. The same criticism is levelled here in Thunder Bay. In fact, not one single person from this area has appeared before this committee today to speak in support of Bill 84.

**Mr Ron Johnson:** That's not true.

**Mr Gorrie:** From the Thunder Bay area, I said, sir.

**The Chair:** Please don't interrupt Mr Gorrie.

**Mr Gorrie:** Thank you very much, Mr Chairman. I appreciate that.

The members of this association strongly urge you to fulfil the election promise of the Progressive Conservative Party of Ontario and thoroughly consult the professional firefighters of Ontario in order to draft a piece of legislation that can be endorsed by all the parties — and I say that again strongly, all the parties — that are involved in the delivery of public safety with respect to fire to the citizens of this province.

Thank you for the opportunity to speak before you today, and thank you for the time you're going to spend when amendments and revisions of this bill are put forth, debated and hopefully adopted. Respectfully submitted.

**The Chair:** We only have one minute per caucus, unfortunately. Mr Bisson.

**1640**

**Mr Bisson:** God, I'd like to have five minutes. There's a whole bunch of questions I'd like to ask you. I guess I'll ask both questions and let you respond.

The first one is that we've heard the government members say over and over again, don't we trust municipal councils to do the right thing? In this particular case,



your fire chief tried to stand up and speak on behalf of firefighters and he was gagged. I think that's a fairly good indication of what some municipal councils, and I'll say some because not all would do that — of some of the problems we might run into with transferring all of these responsibilities on to the municipalities. I'd like you to comment on that.

Second, as a question, if no one supports this legislation, or hardly anyone supports it, why do you think the government is going forward with it?

**Mr Gorrie:** The last question first: Why are they going forth with it? Because it's some agenda to go ahead, to make change. I don't understand why they didn't consult. Change could be constructive if done in concert with all the parties. Firefighters are willing to sit down and negotiate, talk, discuss, and agree upon.

The first question: Do I trust municipal councils? No. They're strapped for cash. They'll be grasping for every avenue in order to save the budget dollar. If they have the avenue of reducing the cost of the fire department and maybe it'll only cause one or two more deaths in a year, well, they'll live with that.

**Mr Ron Johnson:** Thank you for your presentation. All through your presentation you attacked the government for what you called a lack of consultation. I think it's important that you don't confuse consultation with agreement. In fact, there has been a substantial amount of consultation. Both firefighter associations, as well as the associations for the fire chiefs, had meetings with the staff of the Solicitor General's office prior to the introduction of the bill. There were also discussions following the introduction of the bill. There have also been discussions between counsel who have represented your associations and counsel at the Solicitor General's office.

Discussions on this bill have been ongoing for a very long time, and I don't think it's fair for you to criticize the government for lack of consultation simply because you don't agree with the outcome of that consultation.

**Mr Gorrie:** I would ask you to listen to Mr Harris's comments again. His key words there: "Prior to the introduction of legislation I'll consult." He did not consult. I'd like to have you, Mr Johnson, give to me and my association a list of times, people, and locations when hours of work, multiple methods of exclusion, part-time workers, privatization, change of definition, removal of the Fire Departments Act, inclusion under the Labour Relations Act were all discussed by any one of the three or four parties.

**Mrs McLeod:** Thank you very much. You've made it very clear that if there had been a genuine consultation followed by a listening reflected in the act, the act would look very different. I guess what I'd like to ask you is that, as you pointed out, there's a lot that's missing from an act that is supposedly a fire safety act. You've pointed out all the coroners' recommendations that don't find their way into this act at all.

There's also a lot in this act that you wouldn't expect in a fire safety act, including much that is a direct attack on professional firefighters. Why do you think there would be so little in a fire safety act that has anything to do with fire safety and so much that's a direct hit on professional firefighters?

**Mr Gorrie:** The fire safety aspects of this bill I firmly believe are good. I believe it's an enhancement long overdue, but in order to get around and to justify axing labour relations legislation that has worked, and worked well, for 50 years, it has been folded into code enforcement, empowerment to the fire chiefs and the fire marshal's office. There's no need to have a labour relations section in legislation with respect to that. Have we now included into the Highway Traffic Act the OPP labour relations law, if such a thing exists? That's exactly what the government has done with Bill 84. I think it's untoward.

**The Chair:** Mr Gorrie, thank you very much for making a presentation on behalf of your association.

LORNE LONG

**The Chair:** Our next presentation is Mr Lorne Long. Good afternoon. We're running a little bit behind time but we're almost there, so I'd ask you to proceed.

**Mr Lorne Long:** I don't think I'll be too long.

**The Chair:** Don't hurry. You've got your 15 minutes.

**Mr Long:** Compared to what you've been hearing, I would class this as a fireside chat.

First, I do thank the committee for the chance to speak at this hearing and I hope my little talk will contribute in some small way to enlighten the committee on the problems that we as firefighters have to live with here in the great northwest.

My name is Lorne Long. I was hired on the Fort William fire department May 1, 1946, came up through the ranks and retired as platoon chief January 31, 1980, after serving almost 34 years. For those here who perhaps do not know or are not familiar with fire department ranks, it means that I was a foreman of one of the four shifts.

I can tell you all in all sincerity that I know of no other occupation quite like that of a firefighter. It is unique. When the alarm sounds, it could be anything from a simple garbage bin to a building fully involved, each one different in some way.

I well remember a young man just recently hired and he was placed in our shift. He was, and still is, a well-built man with a carefree attitude. He said to me after he had got a few fires under his belt: "I like this job. Where I worked before, I did the same thing day after day. It was so boring. With this job, each alarm is different and interesting and exciting." He was a joy to work with, and getting dirty and wet didn't bother him at all. That's the kind of attitude that this job calls for.

It helps a lot also if you are physically strong because most of our duties call for manpower. It also requires a lot of grit to carry on with the assignment when you are both wet and cold.

If you are the man in charge, it can be very lonely and trying at times, especially on night shift when people are sleeping. I noticed, as I grew older on the job, I became more conscious of the possibility of losing lives. I guess it comes with age. You're more sensitive to that possibility.

You people from the east might say Thunder Bay is a small city; serving it with fire protection should not

present any problem. Our population is only approximately 113,000 people. However, in geographical area it's a very large city. The area totals approximately 323 square kilometres, or almost 210 square miles. We also cover the Indian reserves, in which there are two villages, Mission Village and Squaw Bay, on the shore of Lake Superior. Chippewa Park is also located on an Indian reserve but is city-owned, and of course we cover that.

To make things more complex, the Canadian National Railway line runs right through the approximate centre of the south ward. Today, with the unlimited power of a diesel locomotive, the train can be well over a mile in length. The greater the total train tonnage, the more diesel units are hooked to the train.

This large area means long runs for fire apparatus. To minimize this problem, satellite stations have been located throughout the area. This helps to get some apparatus to the scene as quickly as possible.

Under the heading of "Isolation," this is another problem we have to live with in Thunder Bay. We do not have the luxury of calling up our neighbour and requesting a loan of an aerial ladder and crew. Our closest source of help of any amount is hundreds of miles away. We have Winnipeg on the west, 400 miles, and Sault Ste Marie on the east, another 400 miles. We're stuck with what we have.

**1650**

I remember talking to a firefighter from North York while attending the Ontario Fire College. He said he had no idea we were so isolated. He said they can call and call for help, but we cannot. We use what we have and that's it.

Under the heading of weather: We live in a very scenic part of Ontario. It has often been referred to as God's country. We are close to good fishing and most outdoor recreation. A nice summer day here is hard to beat. Unfortunately, our summers are not as long as we would like, but you can't win them all.

I well remember a little humour that my doctor told me some years ago. He was from Kitchener. I take it that Dr John Spence was interviewing him as a potential member of the local Spence clinic staff. Dr Spence had his late father's good sense of humour. When the young doctor asked him about our summers here, Dr Spence thought for a moment and then said, with great emotion, "Now let me see, what did we do on that day last year?" That doctor recently retired from practice but still lives here. I guess he's hooked on our beautiful countryside.

The cold temperature does make our job more difficult. We have to be ever mindful of pumps and hose lines freezing and not forget the personnel working the fire. I was in the north-central fire station recently while in the area, walking through the ground floor. I was admiring the lovely, modern and abundant apparatus, just beautiful. You are short, however, in personnel to operate it, scraping the barrel pretty thin.

I live in the Westfort area, Brown Street station. They used to only go as far as Sprague Street on first alarm; now they go all over the south ward on the first alarm, leaving our area uncovered a great part of the time. They only man one pumper at the main stations now, so

stations have to cover a greater area. Manpower is very important and a necessary item in the fire service. It takes manpower to rescue victims, to raise ladders, to lay in advance hose lines and to repair the equipment as quickly as possible for the next emergency.

Reference is made in Bill 84 to onsite manning. I take it this means that remaining fire crews arrive after the apparatus gets there. I admit that onsite manning is new to me, but surely this system would increase the response very significantly. I believe professional firefighters strive for a maximum of six minutes until some apparatus and manpower arrive.

Before I close I would just like to say a few words about one of our former mayors, the late Walter Assef. Walter was a very conscientious and honest man. He knew I lived in Westfort, as he did in his younger years. He always had a smile for me, accompanied by a few words about Westfort.

Walter worked very hard as mayor for everyone but his heart was especially soft for what he called the lunch-pail-carrying man. He had an expression that he used quite often, "There is no such thing as a free lunch," meaning of course that you pay for something one way or the other. I submit that this will apply in this case. If you're going to thin out the professional firefighter force and make it up with others, you'll lose a great deal in efficiency, I feel. Let us not be penny wise and pound foolish. Really, I never thought I'd see the day when we'd be in such a mess over this fire business, but anyway, I'd like to thank the committee once again for giving me this chance to address the gathering.

**The Chair:** Thank you very much, Mr Long. We only have about 30 seconds a caucus in the event you wish to comment.

**Mr Bisson:** It's a very quick question. You've been in the fire services business for a lot of years. If we transfer a lot of the powers on to the municipalities, do you think that they will be responsible with those powers?

**Mr Long:** This I don't know. I've often wondered about it, though. That seems to be the way to go today, imposing more and more on the municipalities. But they haven't really come out and said how it's going to affect us, have they? Certainly the municipalities can't finance everything that is being financed now under the system they're using. I just don't know; it's going to take a lot of weeding out.

**Mr Carr:** Unfortunately, 30 seconds doesn't leave enough time, but — I think I speak on behalf of all the members — we appreciate your taking the time to come forward and bring your experiences and share them with us. It's very helpful. On behalf of all of the members, I want to thank you very much for doing that and sharing your thoughts with us here today. We wish you luck in your endeavours in the future.

**Mrs McLeod:** My question would have been the same as Mr Bisson's. I will just also say that I appreciate your presentation, and not only the experience you bring to it, but the tremendous concern you have. I hope that concern will be duly noted and taken into consideration by the committee members.

**The Chair:** Thank you very much, Mr Long. I appreciate the gentleness of your presentation. It's fast escap-



ing in this modern world. Maybe it has something to do with age, maybe we come from the same age, but I appreciate your approach.

**Mr Long:** Thank you very much, sir. I appreciate your remarks.

#### KENORA PROFESSIONAL FIRE FIGHTERS ASSOCIATION

**The Chair:** The Kenora Professional Fire Fighters Association, Mr Ken Peterson, president.

**Mr Bisson:** If I might beg indulgence of the committee, being each of us alone in caucus, I have a call that I've got to go make that I've been putting off for some time. I'm not going to be here for the last presentation. I have the brief and I want to thank you.

**Mrs McLeod:** Do I get your question time?

**Mr Bisson:** I want to move that she gets my question time.

**The Chair:** We can't do that but we like the sentiment in any event. There may not be any question time, in any event.

**Mrs McLeod:** This is a strict committee.

**Mrs Marland:** They wouldn't let me do it yesterday.

**The Chair:** Mr Peterson, welcome, good afternoon.

**Mr Ken Peterson:** Good afternoon, ladies and gentlemen. I would like to thank you for giving me the opportunity to present this brief at these hearings today regarding Bill 84.

My name is Ken Peterson and I am president of the Kenora Professional Fire Fighters Association. I have 27 years' experience presently in the fire service industry. I started out as a young guy, five years fighting forest fires with the Ministry of Natural Resources, and the last 22 years as a municipal firefighter for the town of Kenora. I feel confident in speaking before this committee today because of these years of service.

My employer, the Kenora fire department, is a composite department consisting of 15 paid firefighters and 15 volunteer firefighters. The town of Kenora, situated 500 kilometres west of Thunder Bay, has a population of approximately 10,000 and is in a built-up area with a total population of 25,000 to 30,000 people.

I stand opposed to Bill 84 as it now reads because in my view it will limit the ability of all Ontario firefighters to achieve the goals of their respective mission statements. I would like to dwell a bit on mission statements as they state the objectives and the ultimate goals of most corporations, companies and industries. Most mission statements in the fire service industry would read as follows, just a generic one: to preserve life, reduce injuries and conserve property from the tribulations of fire and other dangerous situations.

This statement would apply equally to all of the broad range of services firefighters deliver to the general public. This list would include such things as firefighting, fire prevention, public education, auto extrication, ambulance assistance, hazardous materials responses and a host of other rescue services, like ice water rescue, that type of thing. The ultimate goal of course would be to reduce our losses to zero. I've attached to your copy of this brief an article on fire department mission statements. You can peruse that at a later date if you'd like.

The government of Ontario and through them the office of the fire marshal have a mandate to the people of Ontario to help protect them from the ravages of fire by providing them strong legislation relating to fire safety and providing strong leadership in the shaping of fire service delivery. In my view, they have failed on both these counts to be as effective as they could be.

To clarify this statement, strong legislation is the backbone of the fire service. Bill 84 has many very good sections of proposed legislation, but it is all overshadowed by the poorly written and hastily assembled part IX, the labour relations area. When introducing Bill 84 to the House in October 1996, Mr Runciman stated that the government is committed to safer Ontario communities. In a backgrounder on municipal responsibilities that was published along with the introduction, it is stated that the proposed legislation will allow municipalities to improve safety and reduce costs by enabling them to match effective prevention and public education with an appropriate and affordable level of fire suppression. One of my questions was, who would decide what is appropriate and who would decide what is affordable?

1700

If you go back to the Gulf war when Canada decided to join the multinational service over there, I believe it took us almost six months by the time we outfitted a ship and got the people ready and everything. So we have a responsibility to be efficient in our services.

Another backgrounder on Bill 84 states that the primary role of the province is to provide leadership and support to municipalities with regard to fire service delivery. The language in part IX will allow the thinning of fire suppression capabilities. Is this providing leadership and will this make Ontario communities safer?

The language in part IX will allow for privatization of the fire service. Is this providing leadership and will this make Ontario communities safer?

The language in part IX will allow part-time firefighters to replace full-time firefighters. Is this providing leadership and will this make Ontario communities safer? Absolutely not, is my answer. Short-staffed suppression crews may save money in the short term but will ultimately cost lives in the long term. It seems to me that we're in the business of saving lives, not the other way around.

Private firms that deliver fire protection for profit should never be allowed in this province. I am appalled that the leaders of Ontario would even consider this option, given the track record of the private firms operating in the States.

Part-time firefighters mean only one thing to me: part-time hours and experience, part-time training, and most importantly, part-time dedication to the job and to the public whom we serve.

I spoke earlier about the requirements of strong leadership to maintain a viable fire service in Ontario. Strong leadership can make or break an emergency service in a real hurry. One just has to observe the Canadian Forces in the last few years to appreciate how critical an issue leadership really is.

I believe the fire marshal of Ontario, regretfully, has abandoned the paid firefighters of this province by

endorsing this proposed legislation as it stands without amendments.

Bill 84 was announced with great fanfare. The cornerstones of the legislation were to be mandatory public education and fire prevention in all communities that would be monitored by the office of the fire marshal. Although firefighters are pleased to see these issues are finally being legislated, it is no great revelation to us that we must focus our attention in these areas.

Virtually all organized fire departments have in place already comprehensive programs that address these issues. It is no great mystery to us that, in order to achieve the goals of our mission statements, we must prevent the fires from even getting started. The departments that don't employ these measures now are mainly small volunteer departments that don't have the funding and don't have the manpower to implement them. The government produces the legislation but won't help with the funding, which leaves these departments in a catch-22 type of situation.

Firefighters are not alone in their opposition to this bill as it now stands. The general public stands behind the firefighters when the impact of the legislation is explained to them. I would like to read a letter of endorsement from a family in Kenora: Two teenaged boys are still alive today because firefighters were on the scene quickly and performed their jobs efficiently. That's also attached to your brief. I'll read it to you.

The letter is from John and Shelly Barnard from Keewatin, Ontario. It's addressed to Mr Mike Harris, Premier of Ontario:

"Dear Mr. Harris:

"We are writing due to concerns about the impact Bill 84 will have on this area if passed. As we are sure you are aware, northwestern Ontario bordering the Manitoba border is a vast recreational area — both in winter and summer. Lake of the Woods is host to a large population of boaters and snowmobilers.

"The emergency response teams, mainly trained firefighters, have saved numerous lives in this area due to their training, experience and dedication. We have them to thank for our son being with us today.

"Our oldest boy, Jay, and his friend (16 years of age) went through the ice on their snowmobiles at approximately 9 pm one night last winter. A child saw their lights disappear in the bay, heard the cries for help and called 911. The response team was onsite immediately and began rescue operations. They were well-trained, had the proper equipment and fought to save the boys' lives. It was a harrowing rescue, and the team put their lives on the line during the process. The hospital staff informed us that our son had been brought in just in the nick of time.

"Without the dedication, hard work, training and experience of these people, we would be mourning the loss of our son. Cutting these programs has a very negative impact on the hardworking and committed individuals that put themselves on the line to help, protect and save others in the community. We understand that there has been rampant spending and excesses during the past. This is not an area that should be sacrificed.

"Our story is not the only incident. There have been numerous heroic rescues, from people going through the

ice, to boating mishaps, search and rescues and on and on....

"Thank you for your consideration.

"Sincerely,

"John Barnard and Shelly Barnard."

I was at that scene that night and it was after dark, really bad ice. It was a very, very dangerous situation and there's no doubt in my mind that if we didn't have a paid department those two boys would not have lived. When you're dealing with hypothermia, you're dealing with a critical amount of time, five or six minutes at the most.

In closing, I can only ask that this committee recommend to the House that this bill not be passed into law without amendments. It is imperative that the government fully consult with the people who will actually be delivering the service to the people. I think with cooperation among all the players, it is possible to pass into law a revised Bill 84 that we all can be proud to say is the best fire service legislation in the country.

Once again, I thank the committee for allowing me to express my views on this very important subject of life safety for the citizens of Ontario, and I'd like to thank you for your hard work on this project.

**Mr Ramsay:** Thank you very much for your presentation. I find it always very helpful to hear stories of real-life rescues like this because it enhances our appreciation of the good work that fire departments do right across the province. This is our third day now and I've heard many of these stories. It's really helped me in understanding the nature of your work.

One thing that puzzles me, and I maybe could ask some of your thoughts on this, is the dilemma that small communities such as Kenora may be put under by this act when now fire education is mandated but not fire suppression. I know the pressures all communities have because of the Harris government cuts in Ontario, but there's a midsized community in Ontario, Kenora, and what sort of pressure are the councillors going to have, and do they have the appreciation of all the work they do, and also the importance of education but also putting that fire out?

**Mr Peterson:** We have had very good support from our council in past years. We're a very small town compared to southern Ontario, yet we've maintained a viable 30-man department, 15 paid and 15 volunteer. We work hand in hand with the volunteers every day. I've got nothing but good things to say about them.

But there's bound to be pressure. Every municipality in the province is fighting, trying to balance budgets. So far I haven't heard anything. I guess they're in full support of us, but maybe in the future, who knows? "Maybe we can cut back two or three men to do other things." I think that would be the wrong way to go.

**Mr Ramsay:** The other thing this bill allows, and certainly in a very straightforward way through its definition of who the employer is, is that it could be any organization, not just a municipality. That really opens that up. My concern is that the Harris government, through Bill 84, is handing a loaded gun to the municipalities. They're not saying, "Go and use it," but they're saying, "Just in case, here it is." That's a real problem. The reason they might want to give that to the municipalities is that because of all the offloading, the downloading



they've caused the municipalities, we know the local tax bills are going to go up and councillors in the next term are going to have a lot of hard choices to make. I was just wondering what you would think of a privatized fire department and how it would work in Kenora.

**Mr Peterson:** I would hate to see them anywhere in Canada, to tell you the truth, but I don't think there's anywhere, any emergency service, where a private firm for profit should be involved. I don't think there's enough — how would you say? — with a municipal department, you have to answer to your mayor and to your council.

**Mr Ramsay:** Accountability.

**Mr Peterson:** Yes, the accountability piece of it. I would hate to see that anywhere in Ontario or Canada for that matter.

**Mr Carr:** Thank you very much for your presentation and for coming here and giving us your thoughts.

On the first page you talk about the 15 paid firefighters and the 15 volunteer firefighters. Is there any way you could explain or help the committee with how the coordination works? How do you define the responsibilities and how have you set it up now for the duties between the paid and the volunteers? Could you share some of the thoughts of how you do it presently?

**Mr Peterson:** A composite department: There's a full-time volunteer department, fully volunteer; there's a full-time department with no volunteers at all; then there's us middle-sized guys with composites.

What we have is 15 full-time volunteers. That leaves three firefighters on duty at all times on the floor for your two shifts. We first respond to any calls, and then if it's more than a one-alarm fire we'll call in our volunteers. They basically work as a backup to us guys, help us out in any way. It has worked well with us in the past and they're quite happy with their role in that they don't have to — there are no officers per se in the volunteer section. They're just more a manpower type of thing, and that's worked well over the years, in Kenora anyway.

**Mr Carr:** One other question: As you know, there are no standards right now across the province.

**Mr Peterson:** Standards relating to —

**Mr Carr:** To the fire standards and what services will be provided.

**Mr Peterson:** Oh, yes.

**Mr Carr:** Individually, different levels have come about, and because of the good men and women, I think we've done an excellent job, but there really are no standards to say, "This is what you need in a community." There is a tremendous amount of flexibility right now between standards.

Is there anything the province can do to ensure the standards? One of the things this does is give the fire marshal for the first time the power to step in, in the event there is a problem in a particular area, for whatever reason, which I think is a good thing. That hadn't been there. Is there anything else the province can do to ensure that the high standards that are met by the people of this province can be ensured right across? Is there anything else the province can do?

**Mr Peterson:** Funding is certainly one, when you go and legislate certain areas. In Kenora we do all our prevention programs. We're up to speed on everything. But there are a lot of smaller and volunteer departments and they are very dedicated guys, but they only have so many hours. They're going to have trouble with the proposed fire prevention and public education end of it. It's good legislation as far as I'm concerned, but it's really going to strap a lot of these small volunteer departments because they're really going to have a tough time putting in the hours to have an efficient program, one that's worthwhile.

**The Chair:** Thank you, Mr Peterson, for your presentation here today.

Our agenda is completed today. We'll be adjourning to Thursday, April 10, 1997, in the city of Sudbury, Ambassador Hotel, salon A, at 10 am.

*The committee adjourned at 1715.*







## **STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE**

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Mr Gary Carr (Oakville South / -Sud PC)

Mr W. Leo Jordan (Lanark-Renfrew PC)

Mrs Margaret Marland (Mississauga South / -Sud PC)

Mrs Lyn McLeod (Fort William L)

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## Legislative Assembly of Ontario

First Session, 36th Parliament

## Assemblée législative de l'Ontario

Première session, 36<sup>e</sup> législature

# Official Report of Debates (Hansard)

Thursday 10 April 1997

# Journal des débats (Hansard)

Jeudi 10 avril 1997

**Standing committee on  
administration of justice**

**Comité permanent de  
l'administration de la justice**

**Fire Protection and  
Prevention Act, 1996**

**Loi de 1996 sur la prévention  
et la protection contre l'incendie**



Chair: Gerry Martiniuk  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
ADMINISTRATION OF JUSTICE

Thursday 10 April 1997

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE  
L'ADMINISTRATION DE LA JUSTICE

Jeudi 10 avril 1997

*The committee met at 0958 in the Ambassador Hotel, Sudbury.*

FIRE PROTECTION AND  
PREVENTION ACT, 1996LOI DE 1996 SUR LA PRÉVENTION  
ET LA PROTECTION CONTRE L'INCENDIE

Consideration of Bill 84, An Act to promote Fire Prevention and Public Safety in Ontario and to amend and repeal certain other Acts relating to Fire Services / Projet de loi 84, Loi visant à promouvoir la prévention des incendies et la sécurité publique en Ontario et modifiant ou abrogeant certaines autres lois relatives aux services de lutte contre les incendies.

**The Chair (Mr Gerry Martiniuk):** Good morning, ladies and gentlemen and members of the committee. These are the sittings of the standing committee on the administration of justice consideration of Bill 84.

On behalf of the committee, may I say we're pleased to be in the great northern city of Sudbury, receiving the hospitality of the citizens of Sudbury.

## MARIE MURPHY-FORAN

**The Chair:** The first person on the agenda is Marie Murphy-Foran. Good morning. Please sit down and make yourself comfortable. We have allotted 15 minutes for your presentation, and I'd ask you to proceed once you are seated.

**Mrs Marie Murphy-Foran:** Good morning, Mr Chairman, members of the standing committee and members of the public. Thank you for this opportunity to address you on the issue of Bill 84.

My name is Marie Murphy-Foran. I'm a resident of Elliot Lake, Ontario and I have been there for 16 years. I'm also a small business owner. I have served the city of Elliot Lake in the capacity of chairman for the tourism subcommittee and have been a member of the economic development committee for the past three years. Today I want to address you as a resident who lives in the community.

In 1981 my husband and I made a conscious decision to move to northern Ontario. We lived in London, Ontario, and we made that decision to come to the north based on the fact of quality-of-life issues around a better-rounded lifestyle, enjoyment of the outdoors, and for sure the opportunities that existed in northern Ontario. Since our arrival we've had two children, Caitlin and Patrick, and in the last 16 years I can honestly say that at no time have I ever felt that the safety or security of my family were in jeopardy. I believe that in those 16 years we

enjoyed a quality of life that was unsurpassed by many of our southern Ontario people and friends.

When it came to fire protection, Elliot Lake was very blessed, and still is very blessed, with a community program tailored to businesses, tailored to the school system and tailored to home inspections which involved wood stoves and chimneys as part of the services offered.

During that time, we had backup protection from our two mines. Rio Algom and Denison certainly were strong proponents within our community and contributed as corporate sponsors over all of those years. These mines have since shut down, and as a result of those closures, this community has had to look at diversification.

In Elliot Lake there are four major areas of diversification. I think as a community citizen, it's really important for me to make decisions about where I'm going to live based on the community I'm living in. Retirement living is one of those diversifications, tourism, small business and education opportunities, including the new development of the Northern Institute for the Arts.

I don't know if you are aware of the significance of the retirement living program to our community. Elliot Lake has marketed itself to seniors nationally, providing the opportunity for people to call Elliot Lake home. Since 1987, 3,000 seniors have moved to Elliot Lake. They call it home and they love it. During that time, over 4,000 people have come to take a look at the opportunities. In my discussions with the retirement living people, because part of my business services seniors, they have as many people coming to take a look at calling Elliot Lake home. It's quality-of-life issues that we talk about, and quality-of-life issues include fire protection and safety, or the perception of fire protection and safety, and that's part of my address today.

Retirement living is the largest organization in the province that caters to seniors. They have just over 1,400 units. The impact has translated not only into a more secure municipal tax base but has also meant big business for renovators, for small businesses like mine and for a variety of service industries that have sprung up to cater to that marketplace.

In 1993 I had the opportunity to work with a variety of seniors on behalf of a consultation that was done regarding safety and security issues. In all cases the seniors I worked with, and it was well over 100 in a catchment area that I talked to, felt they were safe and secure. With the available services for police, fire and ambulance, they had the perception that they were very, very safe. Perception, when you have 24 hours a day to think about — it's a long time.

I'll give you an example of the role and the significance of the fire department or fire protection services.



We had a power outage in Elliot Lake for two hours last week. I was sitting at home and I was thinking, "Well, two hours, so what?" It's nice to put on candles. The kids are having a blast. But then I thought about the person who was in the apartment building. We have two apartment buildings that have well over 100 people living in them and they're totally dependent on elevators. Some of them actually were caught in the elevators, and it was the fire department that actually went and got them out, because if we call the elevator people, they have to come in from Sudbury. It's those types of protection services that are inherent in the retirement living program and to the people we invite to live in our community.

Bill 84 not only jeopardizes the fire protection we rely on, it also jeopardizes this type of fire protection program. We are located 18 miles off of the Trans-Canada, and in good times that's not too far. But in the winter, when a power outage is there, 18 miles can be a considerable turnaround to get some support in there. The other thing is that we're the only full-time fire service between Sault Ste Marie and Sudbury, so if we were to have a major problem in our community, we would rely on volunteers being called in and then on the two other services being called in. The turnaround time is quite significant.

Bill 84, by its nature, undermines the perception of safety within the community. Should the municipality follow through with elements of this bill, then emergency and rescue services in Elliot Lake could certainly be diminished. This in turn will be difficult to attract seniors, whom we have invited to call it home, but it will also have a negative impact on the diversification efforts. Lots of money, lots of time, lots of effort from municipal as well as provincial dollars have gone into the development of this program, and should we have the perception of it not being a safe community, it could have a very, very negative impact. It's been a saviour of our community. It's bridging us as we move into the other diversification areas.

Due to strong community awareness programs and the fact that we are a growing community — we're 40 years old. I don't know whether you know that, but 1957 was when we started. We're 40 years old. We were all new buildings for the last 40 years. Structurally, they were all sound. The last homes were built in 1981. We moved there when they were actually started the new subdivision, the new town site, so they're relatively new buildings. We were and we are a fire-safe community.

Retirement living has been very successful, and the community has also embraced tourism as another diversification strategy. Emergency response plays a very significant role in ensuring a safe environment for visitors and all-season adventurers. Horseback riding, hiking, canoeing and rock climbing, along with snowmobiling, fishing and hunting provide memorable adventures for Elliot Lake and area visitors. Part of the plans I've been working on over the last few years to ensure that tourism is successful is to work in conjunction with the city, firefighters, police and ambulance service to ensure an educated pool of volunteers to service this ever-growing market.

Of course, it's great to say we'll have volunteers, but somebody has to train these volunteers. With reduced

personnel in full-time firefighting, it will make the reliance on volunteers greater, but with reduced training and experience. I think that Bill 84 has the potential to make us more reliant for people's safety in the bush, and I can give you another example. If you have a snowmobile accident in the middle of the bush — the middle of the bush for us is 50 miles north of us, and our fire department responds to those sorts of things — by the time they get there, do the extraction, get the people back, if we have to rely on people who are trained, the availability, there's a whole variety of things that make it unsafe. I think Bill 84 has to look at the transition time. There's no money or human resources that I'm aware of to support this transition. You can't go from having it to having nothing.

The one thing that is really dear to my heart, as far as the tourism development, is cottage lots. We're a full-service community. We have no cottage lots. If you look at the Muskokas and at any of the areas that have cottage lot development, they have an incredible amount of wealth. We don't have any of that, but it's in the plans. These lots will be in more remote areas, meaning they won't be in the city and on Elliot Lake; they'll be north of the city or within the parameters. The parameters of Elliot Lake are 20 kilometres south and 20 kilometres north of the city that we service. A lot of it is bush area, and a lot of the remoteness of it is quite significant. There are little lakes and all those sorts of things.

If we move towards this cottage lot development, a decrease in fire services and a greater dependency on volunteers means there will be higher-risk insurance, adding to the cost of living in northern Ontario as well as enjoying the recreation of the north.

I think that when we're talking diversification numbers, if my premiums go up by \$500 a year, somebody else is going to be making the money, and I think you have to take a look at whether or not that \$500-a-year increase could actually support some of the initiatives that we're looking at disbanding.

#### 1010

I know that I was quite shocked when I moved to northern Ontario and I was told that my car insurance premiums would go up. I was shocked. I had no idea. I thought, "How could they do this?" But they did, and it was based on remoteness, it was based on availability of services, and it was also based on the fact that I was living in a community where people made an exceptional amount of money, and should I hit a car that held some miners, I would have gotten nailed pretty big time. But the local citizen doesn't equate that through. So I think Bill 84 can have a big impact as far as insurance rates are concerned, and from a diversification and personal point of view I think that's a real issue.

The fire department currently does annual inspections of businesses that ensure property owners keep their buildings in an acceptable and safe standard, thus reducing the risk of fire in the downtown core and the industrial sites. This is fire protection, and I know the business owners don't like seeing these guys come around, but it certainly makes it safe for me, as a business owner, to go and rent a space that has been fire inspected. Basically I can say, "I trust that fire department because they're

trained professionals, they are objective and they are basically keeping my interests in the forefront as somebody that's leasing from one of these land owners."

Bill 84 puts the standard of safety in our community in the hands of the municipality, which can result in a negative manner to the restructuring of municipal services. I guess that wouldn't be so bad if that was the only thing, but we have a massive turmoil that has been delivered by this government to all of our communities. We have education, we have social services, we have health, we have welfare, we have all of those other things.

When you have fire protection, you don't realize how valuable it is. It's when you need it that you realize what you've lost. I can honestly say I haven't called the fire services in all my years of living in Elliot Lake, but I know that if I need to, I want that service and I want it available. Bill 84 places the emphasis on cost-cutting but does not mandate maintaining appropriate emergency service and response levels. Unfortunately, before we can measure the bill's true costs, lives will be taken, property lost or injuries will occur.

Members of the standing committee, my question to you is: Have you walked a day in the shoes of the senior citizen who relies on the perception of safety and quick emergency response, the rock climber or the individual who's out in the bush whose equipment may have failed or who may have been hit by a flash flood or lightning, whatever it might be, who's left out there hanging, a head-on collision of the snowmobiler or the community citizen who needs the jaws of life to get them out, which the fire department services? Who will take responsibility for these emergency teams?

It's a real issue; it's a passionate issue for me. It makes a big difference whether or not we stay in northern Ontario, and as business owners and as people that contribute, it's quality of life.

I would also like to say that today I speak on behalf of the Elliot Lake Chamber of Commerce, who unanimously oppose Bill 84 as they believe it will diminish fire protection in the Elliot Lake community.

I hope that you recognize that Bill 84 is a quick cost-cutting measure that will tempt municipalities to save money at the cost of reduced quality of life.

**The Chair:** Thank you very much, Ms Murphy-Foran, for your presentation here this morning.

#### SUDBURY FIRE DEPARTMENT

**The Chair:** Our next presentation will be the City of Sudbury fire department, Fire Chief Don McLean. Welcome.

**Mr Don McLean:** Before I get into my presentation, I was privy to be in Toronto for the first hearing on Monday, and a lot of the material that you're hearing is probably repetitious, so I've scaled back on my presentation so I would leave some time at the end for questions. I noticed in Toronto there was no time for questions, so I've scaled it back on purpose. In this way, it will give the members time to ask some questions.

Mr Chair and committee members, I wish to give you some background information about myself. I have been a member of the Sudbury fire department for 33 years. I

have served in the fire suppression division and the fire prevention division and am currently the fire chief of the city of Sudbury, a position which I have held since 1990. I am also the fire coordinator for the district of Sudbury. For information purposes, the city of Sudbury is a composite fire department with a staff of slightly over 100 full-time and also 31 volunteers.

I am pleased to present today on behalf of myself and the corporation of the city of Sudbury. Also I will be presenting on behalf of the Ontario Association of Fire Chiefs, of which I am one of the board members.

To begin, I wish to congratulate the Progressive Conservative government and the Honourable Bob Runciman for introducing legislation that will replace the archaic legislation that we have been performing under for the past 50 years. It is refreshing to see this legislation introduced that deals with public safety and public education and will enhance management to be afforded changes to more effectively and efficiently manage their fire departments.

During my career as fire chief, and for many years prior to that, the fire chiefs of the province of Ontario, through resolutions at their annual conference, have pleaded without success with all — and I mention all — political parties to amend the Fire Departments Act.

During the term of the previous NDP government, I was privileged, as the second vice-president of the Ontario Association of Fire Chiefs, to meet on numerous occasions with the Honourable David Christopherson, who at that time was the Minister of the Solicitor General and Correctional Services, to discuss changes to the fire services act.

Through discussions with him — we had long and lengthy discussions with Mr Christopherson on this subject — he stated that he was prepared to introduce legislation if there was common ground between the Ontario fire chiefs and other associations. When I say "other associations," I mean the different unions, the volunteer associations etc, so we all had some input into discussions with Mr Christopherson.

This common ground between the parties was never agreed upon and the amendments to the act were subsequently not introduced to the House. Just after the last meeting with Mr Christopherson, the election was called.

I at this time wish to make comment on the introduction of the Fire Protection and Prevention Act. As earlier mentioned, I wish to commend the government and Mr Runciman for introducing legislation that will focus on prevention, public education and public fire safety in Ontario. This piece of legislation is long overdue and will go a long way in restructuring public safety in this province.

I wish to make comments on other proposed changes to the act. As a fire chief, I have been asked on numerous occasions if the act will jeopardize public safety. It is my belief that the public safety aspect will be enhanced with the introduction of prevention and public education. This proposed legislation will allow the fire service to deliver protection at a lower cost and just as efficiently.

Management exclusions: It is my position, and the position of the Ontario Association of Fire Chiefs, that exclusion of management is imperative in this legislation.



It is obvious that only the exclusion of the fire chief and the deputy fire chief does not allow the fire department sufficient managerial positions to properly oversee the effective operation of the fire service. We have been in this position, as I said before, for the last 50 years and we as an association, the Ontario Association of Fire Chiefs, have introduced resolutions from many of our conferences on this subject also.

Dealing with the part-time firefighters, part-time firefighters would be utilized to maintain minimum staffing levels due to vacation scheduling and absenteeism. There are arguments that this would impede team concepts. It is imperative, and I mean imperative, that the part-time firefighters would have to be trained to an acceptable level prior to commencing employment.

I would like to use some comparisons throughout the other professions. If we look at other professions, we find part-time teachers educating our children today for the future. The nursing profession uses part-time employees who must meet the qualifications and criteria set out by that profession. Ambulances in the province of Ontario and in Sudbury are staffed with part-time, qualified employees and they also deal with life-and-death situations on a daily basis. The issue of part-time firefighters should not be whether they belong in the firefighting scope, but how they should be used and training qualifications. As you realize, the majority of the province receives protection from volunteer firefighters and I commend the men and women of the province who give freely of their time to serve the citizens of this province.

1020

I also wish to bring to your attention that part-time firefighters was one of the corporation of the city of Sudbury's demands as a contractual change to the current collective agreement. This proposal by the corporation was submitted prior to the introduction of Bill 84. Just for information purposes, this was submitted probably about a year prior to Bill 84, so I guess we're ahead of the bill, in that aspect anyway.

**Privatization:** It is my belief that this matter is not a fire chief's decision, but a decision of the municipal council on what level of service it will provide for its citizens. Municipal councils are responsible for delivery of service and should have every opportunity to examine any alternative in the provision of services for their citizens. I think that is one area that you will probably get a lot of differences on, but as the fire chief of this municipality, I think the material has to be there for the council to at least have a look at. Their decision will be the decision they make on the level of service they wish to provide their citizens.

One of the other areas I'd like to touch upon is the definition of a fire chief. This definition of a fire chief is not solely mine; this is the definition that comes from the Ontario Association of Fire Chiefs. Basically, we drafted this one at one of our meetings, so I just want you to be aware that this is from the executive and the membership of the Ontario Association of Fire Chiefs.

The need to define the position of a fire chief in law has been a concern of the Ontario Association of Fire Chiefs for some time. We have recognized, in this day and age of liability and responsibility, that this definition

is essential. The fire chief is the individual who has the expertise to provide professional advice on fire-related matters to the municipal council. Ensuring that the appropriate duties and responsibilities are outlined and provided in law will protect the public and the fire chief. The explanation of authority, duties and responsibilities will also improve the ability of the fire chief to manage the delivery of fire protection and prevention programs in a municipality.

The definition of a fire chief as proposed in Bill 84 recognizes that every municipality that has a fire department should have a fire chief. The Ontario Association of Fire Chiefs recognizes that some jurisdictions have an elaborate reporting structure which may include CAOs and commissioners, while others are basic in terms of reporting structure, with the fire chief reporting directly to council.

This definition provides the desired flexibility requested by municipalities and ensures that accountability and responsibility are balanced between policy development and ensuring that those public safety policies are administered and delivered in the best interests of public safety. The members of the OAFCA have consistently requested this change in the interest of public safety. We strongly urge the government to incorporate the definition and reporting process in the final legislation.

In conclusion, this proposed legislation will change the way the fire service does business, but it will be a positive step to making Ontario a more knowledgeable and fire-safe province.

In closing, I wish to thank the government for introducing Bill 84. I strongly support the new legislation. I also wish to thank the panel for the opportunity to present my views on the Fire Protection and Prevention Act.

**Mr Ron Johnson (Brantford):** Thank you, Mr McLean, for your presentation. I just want to refer very quickly to the situation here in Sudbury where you indicated you had about 100 full-time and 30 volunteers. What I found interesting is that you said that part of the collective agreements that were just negotiated included the use of volunteers.

My question is, we've heard a lot of criticism over part-time since we've been on this committee. What part of this bill gives more power to municipalities now than they already have had to negotiate part-time firefighters? My understanding is they could negotiate it already, much like they did with Sudbury, but they're called volunteers. The legislation, in my opinion, defines what already exists. Is that the case, in your view?

**Mr McLean:** Not exactly. The part-time would be a little bit different than the volunteers. Part-time would be used to fill in for vacation relief, for absenteeism. They would be on some type of a list — it could be on a hiring list — but they would serve as a full-time firefighter in a part-time position.

**Mr Ron Johnson:** So it's a different role than what you're seeing with volunteers now?

**Mr McLean:** That's correct. The volunteers are on a call-out basis right now. What we're anticipating through negotiations or through the change of legislation is that we will have a group of individuals that will be trained as full-time firefighters that we'll be able to use for relief.

**Mr David Ramsay (Timiskaming):** Chief, on the top of page 6 in regard to privatization you say that it's your belief that "this matter is not a fire chief's decision, but a decision of the municipal council on what level of service it will provide for its citizens." Are you saying you think it's permissible or acceptable that the city of Sudbury, because of the fiscal restraints they're under by the Harris government, can lower the standards of fire service they provide to the citizens of Sudbury?

**Mr McLean:** No. What I'm saying is that the fire chief of any municipality does not have the authority or the power to have input into this type of thing. I know that it's municipal council that will direct the fire chief to the level of service they want for their community.

**Mr Ramsay:** Are you saying you, as the fire chief, should not be standing up for the people of Sudbury and making sure that the council provides the very best fire protection for the citizens of this area?

**Mr McLean:** I agree with you on that part. Yes, I do. But finally, the council's decision will be their decision. There are other areas too that the fire chief gets involved in and has some say in but doesn't necessarily have the input that he wants into it. I'm just saying that in privatization I think the decision will be the council's, because they do direct the level of service we're going to provide to the citizens of the city of Sudbury.

**Mr Gilles Bisson (Cochrane South):** Thank you, Chief, for your presentation. At the beginning of your presentation you talked about the process you were part of under the former Solicitor General, David Christopherson, from our government at the time in trying to find common ground in order to be able to make the changes that you think need to be made in fire services. Would you say there has been common ground found in this legislation?

**Mr McLean:** With the associations?

**Mr Bisson:** Yes. Between the associations and the chiefs, is there common ground that is found in this legislation that is acceptable to fire chiefs, municipalities and fire services people?

**Mr McLean:** No, I don't believe that there still is common ground. I think that's probably the reason you're getting mixed reactions to the bill. Basically, if there had been common ground, we would have had changes introduced by Mr Christopherson. It's just that we could not get common ground between the associations.

**Mr Bisson:** Would it be fair to say that this bill is more pro city, management, more pro towards those who run fire services than those who actually work in fire services?

**Mr McLean:** Not necessarily, because the issues I'm bringing up here are the issues that were brought up between the associations and the fire chiefs and Mr Christopherson. The issues are still the same; it's just that we couldn't get enough common ground between all the associations to come to a conclusion.

**Mr Bisson:** In other words, the decision was made to side with the fire chiefs and the municipalities, not with firefighters.

**Mr McLean:** In this past —

**Mr Bisson:** In this bill.

**Mr McLean:** In this bill. Yes.

**The Chair:** Thank you very much, Fire Chief McLean.

1030

DONALD DONALDSON  
MIKE OUELLETTE

**The Chair:** Our next presentation is from Donald Donaldson and Mike Ouellette. Good morning. Mr Donaldson is showing us a short movie clip. We always look forward to film clips at this committee.

**Mr Bisson:** It depends on what the clip is.

**The Chair:** It doesn't matter; we still enjoy them. I'd ask you to proceed.

**Mr Donald Donaldson:** Mr Chairman, members of the committee, ladies and gentlemen, good morning.

Speed, experience, teamwork. The emergency incident we will discuss today will outline how these three key terms are so important to professional firefighters. By providing a detailed unfolding of events at a fire, we hope to offer insights regarding the challenges and danger that firefighters must face at the emergencies they deal with on a daily basis.

On July 28, 1993, at approximately 7:15 am, a call was received for a fire at 416 Kathleen Street in Sudbury. First-arriving crews were confronted with heavy smoke and fire billowing from the front, east side and rear of a three-storey, multi-unit apartment building. A mother was screaming that her son and another child were trapped inside; others reported up to eight people unaccounted for.

**Mr Mike Ouellette:** That day my partner, firefighter Blake Desjardins, and I were part of a unit called the SCAT, meaning special crew attack team. We ran up the exterior rear stairway, passing others who were frantically trying to leave the burning building. Our initial entry was made without the benefit of a charged hoseline for protection due to the urgency of the rescue situation.

Entering the rear of a second-storey apartment, we reached a room. Conditions were deteriorating rapidly. Flames raced over us, and we were pinned to the floor by the punishing heat of a flashover, meaning that the contents of the room all ignited at once.

**Mr Donaldson:** The backup crew, consisting of myself and firefighter Terry Larocque, soon arrived at the rear bedroom area, along with a charged hoseline. As a team, we focused all of our efforts on opening and maintaining a safe corridor to the children's room, holding back a wall of flame in an attempt at a rescue.

As the conditions worsen, you wonder as a firefighter if you are able to effectively intervene or if the situation has already claimed its victims, let alone if it will take your own life.

While on the hoseline nozzle, I observed fire through the floorboards. This is one indication that the structure of the floor is possibly on the verge of failure. Again, very unpleasant thoughts wreaked havoc with my mind: Was I going to be injured or die in this fire if the floorboards gave way and I fell into the raging inferno below? At one point, part of my protective bunker suit caught fire and had to be extinguished by another firefighter. As a hose crew, we held firmly to our position; the lives of all of the crew members and the success of the operation depended on it.

**Mr Ouellette:** During the search, we were in constant communication with each other to relay information about



deteriorating conditions, layout of the bedroom and rescue efforts. Upon finding the bed, blinded by total darkness, I had to determine with my thick-gloved hands if the rubbery form I was holding was truly a child. Feelings of relief, horror and urgency immediately fought for my attention.

Rushing out with the child, I raced through the smoke and out of the building. Firefighter Larocque made his way into the darkness to attempt to rescue the second child. He discovered a limp body on the top bunk of a bunk-bed. The heat in the room was layered, and the temperature where he found the boy was intense, even for a firefighter in his protective clothing. Again, a firefighter raced out of the bedroom on his way to safety carrying the body of a child.

The two boys who had shared a bedroom the night before now shared a section of the sidewalk and lawn, plus the attention of firefighters and ambulance personnel desperately trying to revive them.

We are now going to show you some video footage of this fire. The graphic scenes you are about to see represent actual working conditions that firefighters are faced with.

#### *Video presentation.*

**Mr Ouellette:** As a result of the actions taken at this fire, four firefighters from Sudbury were honoured by Governor General Romeo LeBlanc for the role they played in this operation. These men were presented with the Meritorious Service Medal, which recognizes the performance of a deed or activity performed in a highly professional manner or as a very high standard that brings benefit or honour to Canada.

Before presenting the decorations, the Governor General had read the following summary:

"On July 28, 1993, firefighters Desjardins, Donaldson, Larocque and Ouellette demonstrated the highest form of professionalism as they worked to retrieve two children trapped by fire in an apartment building in Sudbury, Ontario. As they worked their way through the burning building, the four made excellent use of their knowledge, training and experience as firefighters. Despite the rolling smoke, intense heat and resulting flashover, the rescuers worked as a team to find the children, while persisting in their efforts to fight the spreading fire. Unfortunately, only one of the children survived."

To us this clearly demonstrates that teamwork and experience are critical factors in the success of firefighters in their ability to function at fire and emergency incidents.

**Mr Donaldson:** In order for anyone to have a chance of being rescued from such an untenable environment, they have to be rescued within four to eight minutes or the brain suffers damage from lack of oxygen. A full complement of firefighters has to arrive at the scene with a minimum interior crew of two to conduct search and rescue. Additionally, a backup crew of two other firefighters is very rapidly required on scene.

The time frame for effective rescue is dependent on a number of factors, such as how long the fire has been burning or smouldering; how long it took for someone to notice; how long it took to notify the fire department; how far the location of the call is from the responding

fire station etc. These factors are out of the control of the fire department at that time. However, the fire department has to be able to have control over the number of firefighters responding, along with their training and experience level.

Full-time fire fighters who do their job day in and day out, who train every day, have a much better chance of being an effective team than those who are part-time and do not have the opportunity to do these tasks daily, to train daily or to work at team-building on a daily basis. Our ability to efficiently provide intervention in times of crisis should not be compromised by being handicapped with the presence of lesser trained or qualified individuals.

**Mr Ouellette:** As was very clearly indicated in our explanation of the actions we took at this fire, we could not have been effective without working as a team, without putting our own lives in the hands of our partners or other team members. To us, being part of the team is not just a cliché, it is our very existence. We eat, live and work together, round the clock, allowing us to build trust in each other. This trust only comes from working as a team to be the best we can be.

When a fire occurs, speed is also of the essence due to the fire growth curve. Fire grows in an exponential fashion, such that it doubles in intensity every minute. Essentially what this means is that a fire can double its size in one minute, grow to four times its original size in two minutes, and so on.

**Mr Donaldson:** Experience is another critical factor in the ability of firefighters to perform their jobs effectively. Fire poses a danger every time it breaks out, and being experienced in dealing with such dangers provides one with the confidence to be able to tackle such a formidable enemy. There are numerous instances of professional firefighter deaths due to lack of experience, including Port Colborne, Ontario, 1991, where a firefighter died on his first day on the job at a water rescue due to lack of training and experience, and Stockton, California, February 1997, where a firefighter at his first fire was killed inside a burning house.

#### **1040**

Experience gained as a firefighter is a lifelong learning process. Every emergency incident a firefighter attends brings with it a different set of challenges and problems, which add to the experience and knowledge base of that firefighter. We do not believe that part-time firefighters who may only work one or two shifts in a week or a month are ever going to gain the experience to safely and effectively deal with emergencies; nor are they going to be able to form bonds and become part of the team. This team building does not come easy, but because we work at it on a daily basis we are able to leave the firehall as a united front to attempt to safely bring the emergency at hand to a conclusion, while minimizing loss of life and property.

Part of what we are asking of you today is to reconsider part IX of Bill 84 and to take out the provision allowing for the introduction of part-time firefighters in Ontario.

**Mr Ouellette:** In firefighting the words "tunnel vision" describe a dangerous state of mind where you can focus

so intensely on one aspect of an emergency that you become oblivious to other critical factors as they are developing. Our effectiveness depends on maintaining our concentration in highly stressful situations; the ability to take in as much information as our senses will allow; and to develop a clearness and persistence of aim in the performance of our duties.

Bill 84 could create a situation where municipal officials who make structural changes to their fire departments could easily develop tunnel vision solely based on economics. Administrators in charge of fire protection services, leaders at the provincial level, and I would include some fire chiefs, might never have had the opportunity to experience or might have lost touch with the essentials of firefighting.

The greatly expanded role of modern fire departments into new areas such as Hazmat or medical aid has created a complex and dynamic profession. It is understandable then how the people making decisions may have a limited perception of the reality on the fire front and the ramifications of their decisions on the front-line firefighters.

Bill 84 must represent the concerns of all groups in the fire service to ensure that this bill reflects the wide range of services we provide. The effectiveness of this legislation and any amendments depend in part on this committee's ability to maintain a broad view of the challenges facing each stakeholder and to develop a clearness and persistence of aim in drafting the new structure for fire protection services.

**Mr Donaldson:** Through our insights into speed, experience, teamwork, which we have shared with you today, we believe we hold valuable counsel in the structure of fire protection. We thank you for your time and attention to our presentation and urge you to listen to us as career firefighters and to consider the information we offer.

**The Chair:** Thank you very much, gentlemen, for your presentation here today. Most valuable.

**Mrs Margaret Marland (Mississauga South):** I know that you're saying that there's no time for questions.

**The Chair:** Yes, there is no time for questions.

**Mrs Marland:** I know you're saying that, but before these two gentlemen, Mr Ouellette and Mr Donaldson, leave I would like to express on behalf of all of the committee members our sincere congratulations on your receiving the Meritorious Service Medal.

**Mr Bisson:** I wonder if, by unanimous consent, we could allow a minute of questioning to the previous presenters, each of us, one minute each.

**The Chair:** You can do anything you want by unanimous consent. It simply means that you're favouring one group over another. I have cut off very distinguished mayors in Toronto and everything else. Everyone gets their 15 minutes. As soon as you start giving one group other ones, you're putting everyone in a very difficult position.

**Mr Bisson:** I've been in the Legislature for some time and I'm aware of what I'm asking; I'm asking for unanimous consent. Will you ask, please?

**The Chair:** Okay. Do we have unanimous consent for one minute per caucus for questions of these two individuals? We do not have unanimous consent. Gentlemen, thank you very much.

## CLARENCE SOULE

**The Chair:** Clarence Soule. Good morning, Mr Soule. How are you? I will ask you to proceed once you're comfortable.

**Mr Clarence Soule:** Very good. My name is Clarence Soule. I'm chairman of the Rockview Towers Seniors' Association and the Sudbury Seniors' Coalition with a combined membership of 4,000 members.

I want to, first of all, thank you for giving me this opportunity to speak on behalf of the seniors in Sudbury. They're very interested in having good fire protection. We are greatly opposed to Bill 84 in its entirety, particularly where it cuts back service and threatens people's lives to save money. It is our feeling that an individual's life is more important than the almighty dollar.

I would like to bring the following questions to your attention: Number one, are we creating a stronger economy when we are contemplating eliminating more full-time jobs? Number two, how can we hope to have high-quality fire protection service with part-time employees and volunteers who are not as well trained? We feel this is an impossibility and statistical information clearly spells this out even more.

Take response time, for example. Statistics clearly indicate that if you don't have enough firefighters the first eight minutes, the fire will spread and the risk of injuries increases. After 12 minutes your chance of a successful rescue is only 46%. After 15 minutes it is only 5%. This bill will likely reduce response times, which will in turn risk the lives of citizens.

Then there is the problem of having part-time firefighters. The first thing we would point out is the lack of training and experience of part-time firefighters compared to our full-time professionals. Studies have indicated this creates slower response times. Several cities in the United States, such as Durham, North Carolina, had to abandon this system because of too many problems.

It's the same story with trying to use full-time firefighters working part-time in other areas. We need them when we need them, right in their home base so that they remain ready at all times.

There are also problems with volunteers because they have other jobs to attend to and are not always available when needed. They also have less experience which means they are slower and have less opportunity for training.

Privatization also reared its ugly head, and after studying the poor results they had with this in Sun City and Youngstown, we don't feel it would be wise to introduce it here in Canada. They had problems with response time, poor staffing and malfunctioning equipment.

The firefighters had the argument thrown at them that they were only trying to protect their union dues. However, they have pointed out that even the fire marshal says the current system is better for teamwork in an emergency. It is public safety they have in mind, not their union.

Then we have to ask ourselves why this bill is so bad for teamwork. First of all, adding part-timers with less training and experience makes it harder to function as a team because you don't know how the guy next to you is



going to react in certain situations. Using firefighters at management levels also separates the team aspect, which is contrary to what the fire marshal had recommended.

Understaffing also creates a lot of confusion because you don't always know how many people are available. This would be like a professional football team that only puts six players on the field, but every so often added amateur players. We ask ourselves how many games they would win. Our guess is they wouldn't win any.

Understaffed emergency vehicles can't do the job properly. When there are only three firefighters on a truck, search and rescue operations fall to 80% effectiveness and it's impossible to enter the building to fight the fire. I don't think this is the level of firefighting service we want in our community.

**1050**

A lot of people think firefighters sleep and play poker all day in the firehall. What they don't realize is that they look after more than fire. Other calls they get include such things as extrications, hazardous material spills, medical emergencies and water rescues. They get non-fire-related calls 60% of the time. When they are not at emergencies, they're repairing equipment, doing drills, planning and doing fire safety information.

Some say this bill unties the hands of municipalities to make a more efficient firefighting organization. However, after carefully studying this bill, you find it is a plan to privatize use part-time help and to add bureaucracy, which will weaken the system and threaten the lives of people depending on this vital service.

In closing, I would just like to say that Bill 84 certainly doesn't impress the seniors in the community. There is nothing in it other than the potential to jeopardize the lives and safety of many people and the possibility of creating more unemployment in Sudbury. We recommend that this Bill 84 be rescinded so that we can continue to enjoy a feeling of security in our homes, knowing we still have good fire protection.

Once again, thank you for giving me this opportunity to express the view of seniors on this very important issue. It has been an honour and pleasure being here.

**The Chair:** Thank you, Mr Soule. We have two minutes per caucus and we start off with Mr Bisson.

**Mr Bisson:** Two questions: The first one relates back to a presentation we heard earlier from Chief McLean of the Sudbury fire department. He mentioned that under the previous NDP government there was an attempt to draft legislation in order to modernize the fire safety act and there was an unwillingness to do so on behalf of the New Democratic government because common ground could not be found between the needs of firefighters and the needs of municipalities on the fiscal side.

In your presentation you touched on the issue that you feel that this particular bill deals with the economic side rather than the practical side of firefighting. In your own words, I guess what I'm asking you is, do you think there has been common ground found between the needs of firefighters and the needs of municipalities? The second question is, where does this lead us in the end?

**Mr Soule:** I think definitely there's a need. The need is there and the same high-quality fire service we've been getting in the past we want in the future. Like I explained

in my presentation, we've certainly got enough unemployment around now without doing away with full-time jobs.

**Mr Bisson:** The presenters who were here before us, firemen Donaldson and Ouellette — and this is a bit of a subjective question and the government may get a little bit upset — do you think it would have been possible for them to save the life of that one child if there had been part-timers coming together into a loose team concept?

**Mr Soule:** No, I don't think so. If you hadn't had the expertise and professionalism that firefighters have now, I don't think the child could have been saved.

**Mrs Marland:** Thank you, Mr Soule, for your presentation. How long have you lived in Sudbury? Just approximately.

**Mr Soule:** About 40 years.

**Mrs Marland:** Are you aware that the Sudbury fire department does have part-time firefighters now?

**Mr Soule:** No, not to my knowledge.

**Mrs Marland:** Well, they do. Apparently about a third of the firefighters in Sudbury are part-time. I know the concern that you have about a council making decisions on the basis of the economy and the dollars and so forth, but as a former city councillor for seven years I know that you wouldn't have a municipality anywhere in the province that didn't prioritize in terms of human need and it would start with —

**Mr Bisson:** On a point of order —

**Mrs Marland:** Excuse me. You're using my time.

**Mr Bisson:** I will gladly give you some of my time in the next questioning round.

**Mrs Marland:** No, that doesn't work.

**Mr Bisson:** But that needs to be clarified because part-timers are not used in the fire services department of Sudbury, only volunteers who augment the present full-time team concept.

**Mrs Marland:** Is this off my time?

**The Chair:** No, no.

**Mr Bisson:** You can take it off my time.

**The Chair:** We've added 30 seconds more then.

**Mrs Marland:** Fine. I'm sorry. Maybe I used the wrong word. But my point is that you elected your municipal council and I don't think municipal council is going to put their citizens, their electorate at risk. I'm just wondering if you had reason to feel they would make that decision, because policing and firefighting, I would think, would be the biggest priority in their budget and no matter how short of money they were, they would always have money and would start with those human safety requirements first. I wondered if you would agree with that?

**Mr Soule:** I presume they would and certainly hope they would take that as a very high priority and would put the lives of citizens ahead of the —

**Mrs Marland:** If they didn't, you could vote them out of office and ensure you had people who made the right priorities on your behalf.

**Mr Soule:** Yes. Like I said in my presentation, I feel a life is more important than the almighty dollar.

**Mrs Marland:** There's no question, and we feel that very strongly. There's nothing in the bill that says a municipality must do one thing or the other. If your

municipality has been making the right decisions up to now and obviously hiring very high-quality, well-trained personnel in the fire department — the example of Mr Donaldson and Mr Ouellette — I wouldn't think that in Sudbury you have anything to worry about.

**The Chair:** Mr Ramsay, I apologize. As you properly pointed out, I did not take the proper rotation. You should have been first and I'll make sure you're first next time. Now you have two minutes.

**Mr Ramsay:** Mr Soule, thank you for your presentation. I don't want you to be fooled by Margaret Marland here because she's living in a fairy tale land. Municipalities used to have money and they could make the very best decisions for the people of Sudbury and other cities, but with the Harris squeeze on municipalities through all the downloading, this Bill 84 represents a loaded gun that the Harris government is giving to the Sudbury council to say, just as the chief has said, that it's up to the Sudbury council to determine what level of fire service people here are going to get.

The way things are going, they're not going to be able to afford to get first-rate fire service and Bill 84 is going to allow them to do that. That's why we should have something in here that says: "It's a provincial interest that everybody in this province gets the very best fire service available, and regardless of the downloading, we're not as a government going to scrimp on public safety and security. We're not going to allow privatization in a fire department because an operation running for profit is not going to provide for the public good, because their motive of course, as it is for a company, is to make money for their shareholders. We have no business doing that in the public service for public safety and security issues."

That's what this bill is about. It's about getting all the Tory friends lined up to run a fire department for the people. They're going to cut corners. They're going to cut equipment. They're going to cut salaries. They're going to cut men and women on the line and we're not going to get the fire services we deserve. That's what Bill 84 is all about. Thank you for your presentation.

**The Chair:** Thank you, Mr Soule, for taking the trouble to assist us here today.

Our next presenter may not yet be here: the Sudbury and District Association for Community Living, Sid Blanchette. Is that you, sir? Oh, good.

**Mr Bisson:** Mr Chair, for the record, I would just want the record to show that the city of Sudbury does not use part-time firefighters as claimed by the Conservative member Mrs Marland. Just for the record they use a full-time force augmented by volunteers, when needed.

**Mrs Marland:** I corrected myself.

**Mr W. Leo Jordan (Lanark-Renfrew):** What's the difference between a volunteer —

**Mr Bisson:** What's the difference between a volunteer and a part-timer? If you haven't figured this out, that's why we're having problems with this bill, Leo.

*Interruption.*

**The Chair:** I would remind the gallery that the standing orders do not provide for any demonstrations.

**Mr Bisson:** It's okay, we're using the sitting orders today.

**The Chair:** I would discourage it because my only remedy is to clear the gallery and I would be very loath to do so. However, I will if called for. So I'd ask you to restrain yourselves. I know it's very difficult at times because there are things you do agree with and things you don't, but we have to do it and we ask you to do it too.

1100

## SUDBURY AND DISTRICT ASSOCIATION FOR COMMUNITY LIVING

**The Chair:** Mr Blanchette, please proceed.

**Mr Sid Blanchette:** My name is Sid Blanchette and I represent the Sudbury and District Association for Community Living. I'd like to thank you for giving me the opportunity to speak to you about Bill 84.

I'd like to start by explaining first who we are and what we do. We provide services to 520 adults and children who have developmental handicaps. One of these services is to provide the clients with a place to live, short term or long term, in one of our 10 different locations, which include group homes, supervised apartments, and settings in regular apartments in the community.

Another service is to provide day programs in four different locations of the city where clients can learn life skills and work skills. Some of these locations provide a service for up to 45 clients at a time. There are several other agencies in the area that also provide services to people with developmental handicaps, and just off the top of my head, in Sudbury alone I can think of at least seven more group homes.

Hopefully, this gives you a partial picture in your mind of the types and the size of services being provided to people with a developmental handicap. So far I've mentioned 17 residences and four day programs in the Sudbury area, and that's just part of the picture; it's not everything.

A while back we asked for someone to come in and talk to us about Bill 84 because we were unclear what it was about and how it would affect us. We had two firefighters come to one of our meetings and talk to us about Bill 84 and how it would affect us. More clearly, they talked to us about the changes that could happen and how they might affect us.

In reviewing this information afterwards, as an organization and as individuals, we felt we had to make our opinion known regarding the changes, and voice our support for those who would like to ensure that the ability of a firefighter to respond to emergency situations does not get watered down by changes in legislation.

Over the years the Sudbury and District Association for Community Living has developed a close working relationship with the Sudbury fire department. They know who we are and where we are, and many of them know our clients. They have helped us set up our programs in a safe manner and have helped us develop our fire evacuation plan. In 21 years, I can't think of any injury related to fire that we've had in any of our programs. I think that's quite a record, and part of that is because of the Sudbury fire department helping us provide safe programs.



To give you one example of the sort of thing they've done for us, last summer they came into one of our group homes which has six clients who in addition to being developmentally handicapped also had severe physical handicaps. They helped us develop a fire plan for that building. If you can picture yourself in a home in the middle of the night and having a fire, if some sort of emergency happened, you've got six people who are in wheelchairs who can't help themselves, who can't move, and you've got two staff on. That's the sort of scenario we have in that one particular building and we have variations of that scenario in many of our other buildings.

What the fire department did was come in and help us develop a fire plan, and they held a mock fire drill. They came in on the assumption that it was the middle of the night and there were only two staff on and those six clients were in the building. They came in and evacuated the building. They came in and made use of all the resources they'd helped us plan and it worked very well. The whole exercise was taped as a training method for the firefighters and for our own staff in other buildings.

The point I want to make is that all our emergency plans for fire are based on the fact that the fire department will respond in minutes, not in 10 minutes, not in 15 minutes, but in minutes. We have had several alarms over the years and the response time has always been excellent. It has been in literally minutes, three or four minutes. It's like they're around the corner and those few minutes, we believe, make the difference between life and death, at least for our clients, and I'm sure for many other people within the Sudbury community.

You'll not get this type of response plan if firefighters have to be called in because the station is understaffed, and you certainly won't get it if you're using part-time workers who have to be called in from another job or haven't been training together regularly to have that team approach, that fast response down pat.

Our fear is that if municipalities are given the power to save money by cutting the number of full-time firefighters or going to part-time workers, when push comes to shove, they will do it because it will save money. It'll be a short-term solution to a long-term issue.

Common sense tells us that if you slow down the response times, there are going to be injuries and there may be deaths. As we speak here today, our organization is participating with the provincial government in a long-term plan to move people with developmental handicaps back into the community from institutions, most of those down south.

While we are doing this, the same provincial government is telling us the support is there for the clients in the community. At the same time, they seem to be cutting those community supports. We are moving vulnerable people into the community while the provincial government attempts to introduce legislation which would give the municipality the power to cut what most people consider core or essential services.

At a time when people are being sent home from hospital earlier, when older people are staying home longer and when the general direction from the government is to support your vulnerable people in your community in a safe and effective manner, it does not make sense to

tinker with or to change the way emergency services work, especially when they work as well as ours do.

Our organization believes the services provided now by the Sudbury fire department should continue at the same level we have become accustomed to. This means full-time, well-trained professional firefighters. Fire stations and emergency vehicles should be adequately staffed at all times to be able to respond to emergencies as quickly as possible. We do not support the use of part-time firefighters as we believe part-time firefighters will slow down the response time which is critical to the safety of every individual in Sudbury.

I don't care what anybody says, when you compare full-time people to part-time people, in any profession, you're going to lose something by using part-time people. That's not to say anything against them, but I know that part-time people in our organization receive a certain amount of training but can't keep up with the full-time people, can't keep up with the amount of experience the full-time people have. There's a wide difference when you get down to the crucial point, crucial times.

The part-time people will not have the same amount of training as the full-time firefighter. They may receive a certain standard of training but they won't have all the same training that a full-time firefighter gets, and in these days you need more training than ever before.

Just some of the examples: I'm on the joint health and safety committee within my organization. You can spend all your time just keeping up with training with regard to hazardous materials out there in the community. The part-time people are not going to receive the same amount as the full-time people, regardless of what anybody says, in terms of training.

Medical emergencies, confined space entries, auto extrications, water emergencies: These are all things the fire department has become more and more involved in as time goes on, more than they have in the past. You need full-time employees doing these sorts of things all the time to gain the experience and the training to do the job effectively.

Part-time people can hamper the team effort, when everyone needs to be working as one. You need to train together and you need to learn to work together. This is done on an ongoing basis. It's not done on a part-time basis.

As a second point, we do not support privatization in any way, shape or form. I don't know about anybody else, but I certainly would not want a for-profit company providing an essential service to me, because I know a for-profit company is at some point in time going to cut corners to save costs, and if cutting those corners means endangering my safety, I as an individual and our organization don't want anything to do with that.

There was an interesting comment made by a gentleman in the newspaper the other day regarding privatization. When you privatize something, things look pretty good at first. The company comes in, they provide a good service, they provide it at a low cost. As years go on, and you have no equipment left and no control over those services any more, the scenario can change quite drastically. The cost can go up and the service can go down. You don't have any say in it any more. It's a case of



applying a short-term solution to a long-term problem. We need to keep our services at the same level they are at presently.

As a third point, we do not support any bureaucratic expansion within the fire department. Like any other business or agency these days, you need the front-line workers, not managers or bosses. For everyone you turn into a manager or for everyone you turn into part of the bureaucracy, that takes away from the front line, and of course in these days of cutting costs, you're going to end up cutting on the front line once you put those managers in. You need to keep all your resources, or as many of them as possible, on the front line for training, equipment and for the full-time professional firefighters.

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In conclusion, I would like to say we do not want to become Americanized by privatization of any or all of our core essential services. Saving money is not everything, and our quality of life has to be considered. Our fire department is an essential support to our community, and as an organization and as an individual, I would prefer that it not be touched in any way, shape or form except to better those services. Thank you very much.

**The Chair:** Thank you, Mr Blanchette. We have less than one minute per caucus.

**Mr Ramsay:** Sid, thank you very much for your presentation. I truly agree with you that when it comes to emergency services such as the fire emergency services we have, we've got to continue to rely upon full-time professional firefighters in this case.

Many of the government members seem to think that part-timers would work just as well, and I'm sure part-timers work very well in other industries. But these people sort of live on the edge. They're in a special kind of zone, all the day dealing with these emergency services and calls, and somebody's who's back at the plant, in the mine or at the office most of the time and then getting the call to come in, or even if they're at the firehall for a couple of days, they're just not as 100% involved in it, nor could they be, as the professional front-line firefighters. I truly agree with you, and I hope through these hearings, hearing more stories like you, maybe we can convince the government members to prohibit the use of part-timers.

**Mr Bisson:** I want to thank you very much for your presentation, because I think you added to what needs to be understood by the government members when it comes to the difference between the use of part-time and full-time firefighters.

In the time I have, I just want to say that the NDP caucus will be introducing amendments. I guess I'm giving notice in the time that I have that we'll be introducing amendments to this legislation. I guarantee it won't be 12,500, as with other legislation, but there will be amendments put forward to clear up the definition of firefighters not to include part-timers, for some of the reasons we've heard today, along with some other very important amendments around the introduction of privatization and other concepts in this bill that we think are inappropriate for fire services in the province of Ontario.

**Mr Gary Carr (Oakville South):** Thank you very much for your presentation. We don't have much time.

As you know, across the province right now, the province does not dictate to municipalities how they will staff fire departments. It's a wide range. I bet the people in Sudbury think they have the best fire department, which they do. I've heard great reports here today. The people in Brantford probably think they do. We in Oakville think we do. We don't set, as a province, the standards; it's up to each individual municipality, and they've done a great job right across this province.

What do you believe is all of a sudden going to change with these municipalities, the same people there on council who have put together the Sudbury fire department? I'm under no illusion that there aren't a lot of other pressures because of a lot of funding, but why is it all of a sudden going to change, that they're not going to make the right decisions for the people of Sudbury?

**Mr Blanchette:** From what I understand and from what I see, it's my understanding that municipalities will be given the power to make changes within the fire department. I guess it's a higher profile now that the bill's come out or something, but I don't want the municipality to be looking at using the fire department to save money for other areas. I think a number of municipalities may look at the short-term gain and again not at the long-term gain in terms of the fire department.

**Mr Carr:** They'd be doing that now if they were going to do it. They've got pressures. They would be doing that now. I don't see anything change, although I'm under no illusions it's tough in municipal politics. It's tough being a federal politician. There are tough choices now. But what I'm saying is that those pressures would be there now, and I don't see anything as a result of this bill that's going to change the council's mind to all of a sudden rush out and privatize or rush out and go to part-time. Is there anything I'm missing on that?

**Mr Blanchette:** Maybe they're not going to rush out and do it, but every day the pressures get higher and higher because the costs are increasing for everything else within municipalities, and they're going to be looking for different directions to go in terms of saving money. This is one area where it can be done. They may not do it tomorrow, and I'm hoping the municipality hears that we don't want any changes. It's our hope that regardless of the bill, the municipality will keep things at the same level that they have now, or better. But I think the municipality or other people see the bill as giving them more power, although it may not, and more power to make changes.

**The Chair:** Thank you, Mr Blanchette. Our time is up.

**Mr Bisson:** Mr Chair, and I beg the indulgence of the committee, people in the back, as I walked out, told me that they are not able to hear adequately the presentations. I'm wondering if the technical people can try to remedy that so that people in the back can hear what's happening here.

**The Chair:** We'll try to do that. Thank you, Mr Bisson.

RAY PORATTO

**The Chair:** I would call on Mr Ray Poratto. Welcome, Mr Poratto.



**Mr Ray Poratto:** Thank you, Mr Chairman and committee members, for permitting me an opportunity to present some private sector views on the question.

**Mr Bisson:** That's allowed.

**Mr Poratto:** Thank you. The fire protection act has come to my attention over a period of time, and I have some interest in making some comments on that point.

My name is Ray Poratto. I am a private citizen from the private sector. I'm an employer, have been for many years, employing anywhere from three to 103 people, a taxpayer, and at the present time I'm semi-retired, so I had the good fortune to take the time to look at a number of pieces of legislation that are coming down the pipe.

I guess it's interesting to me as an impartial observer to look at the developing public sector-private sector fandango, I call it. It's been going on for some considerable period of time, particularly more recently. By public sector-private sector fandango, I use that term because it resembles kind of a dance of some opposing forces, if you will: the private sector point of view on how the government should function and the public sector point of view on how it should function, and the considerable disparities between those two points of view.

I've watched with considerable dismay, quite frankly, the power and the growth of the public sector of the province. I'm dismayed because I see the advance of numbers, the advance that's taken place over the last number of years in payroll. The last recollection I had to observe was that there were approximately 900,000, or close to one million, people in the public sector in this province attempting to share the resources and the revenues and the rest of the pieces that were left on the table.

I also listened to the almost endless lament of that public sector that has accumulated such a vast power and such a vast part of our resources, and I watched them demanding often more and more, at greater and greater cost. The worst part of it all is that I see a tremendous resistance to changing any of that accumulated momentum. That's the part I fear, the tremendous resistance to change.

I observed in the health care sector, for example, the tremendous need for change and the changes going on that will be beneficial to all of us, and I'm not speaking as a partisan politic position here; I'm speaking as a private citizen and taxpayer who sees the resistance to change in the educational institutions, in civil service personnel, in police departments, garbage collection, fire departments. You name it, it's going on, and I'm dismayed by that.

I see the constant ranting, striking, marching, coercing the public that is paying the piper, and on and on ad nauseam. I have to say that at this point I'm tired of it, and that's the reason I elect to appear, because I'm tired of listening to that and watching the wasted resources that occur.

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I suppose at some point in time we have to realize that the changes have to take place in the way we pay for services and the way we pay our public sector and how they've grown.

In the small business sector that I come from, the private sector, I watched for 50-odd years the kind of

changes that have taken place in my businesses as well as in my associates' businesses. The changes have sometimes been brutal, often costly, but they were made frequently. The alternative was to go broke. It was that simple so many times. If you've never met a payroll, you may have difficulty understanding the brutality of the marketplace and how it doesn't listen to the whining and the whimpering and the lamenting about the fears and the stress and all the rest of it that I hear from so much of the public sector.

In the private sector, the status quo is not an option; it never was and never will be, because we'll be faced with that huge grey hand of the marketplace that hovers over us and says, "Change, or else." You know, we're all a little like Linus, the small boy from the comic strip with his blanket when it's in the dryer. We're terrified of that little bit of change.

I like some of the provisions of the new act. I've looked at it. I haven't studied it meticulously, but I understand how to read an overview. I like the focus on prevention. I think it's excellent. I think all we have to do is look at the health care sector to see how much work is being done there in prevention and how that will save money. Perhaps it might even result in some fewer jobs, because if good prevention activity takes place, we don't need as much in the way of service, and of course that saves dollars. So I'm glad to see that aspect of it.

I like the flexibility recommendations in some of the act that I read: cooperative, interdepartment, volunteer changes and so on.

I like the removal of management people from the bargaining unit. I've faced that in the past. You only have to look at the education system to see how perhaps we have to review that whole question of management or people at that level being removed from the bargaining unit.

I like the integration ideas, integrating fire services with better fire protection, with public education. I can't think of anything finer than a lot of public education effort.

I like the formation of a public fire safety council. I'm sure that would enhance private sector participation. I like private sector participation in all these questions. It brings a good balance. It can be very objective. It can avoid the bias of: "What am I going to do if I lose my job? What am I going to do if I can't get a promotion or better pay?" When you get private sector participation, they have a lot of answers to that question, and by answers to it, I don't mean chainsaw answers. We answer them every day to our employees and other people, so we have a pretty good idea of how that kind of participation can have beneficial effects.

I know and you all know that there has been a very extensive review and consultation over many, many years attempting to introduce changes that go back to aspects of the act 40 or 50 years, I read, where changes haven't taken place. Great resistance over these many consultations and reviews have been experienced, great resistance and refusal to support those reviews and implementing those consultations. I see that the majority of the resistance comes from people who are affected in terms of their jobs, their income, their security and their status.

I'm going to give you some abbreviations here rather than read them all: OMPA and PFFOF and OPFFA and firefighters associations and the union — read "union" for all that stuff. It keeps it a lot simpler. There's been a good deal of stonewalling, plain and simple in my view, as a result of the overview that I've taken of it. That's not new. I've seen that stonewalling in many other sectors over many, many years, many, many times.

The refusal to change, to adapt to this legislation, I'm sorry to see so much of it. As I said, I've seen it all before and I've seen how it can be overcome.

As taxpayers, as private sector people, this is not an uncommon or untypical situation. However, I have to say to you that the changes should go forward, that the resistance has to be overcome, that we have to proceed. You know there are entrenched positions in all of these things. Sometimes they get entrenched so deeply and our attitudes are so unchangeable that it's very difficult to root them out. I've had that experience with employees. I don't have it with customers and clients because I make the changes immediately, sometimes frequently, sometimes drastic changes. But I see it elsewhere.

My simple recommendation is to proceed with the implementation of the changes, not spend another 30 or 40 years in the stonewalling process that has gone on for the last 30 or 40 years in trying to make these changes.

Having said all that, I want to say to the firefighters behind me there that we know they do dangerous work. We know they work under difficult conditions frequently. We know that. They save lives. We know that. But that doesn't mean that we can't improve the system we're working under and get better results at lower cost.

That's my simple submission to the committee, that I recognize the forces we're working with here. I have faced them many times. I have overcome them many times. Sometimes I fail to overcome them. You know, that big grey hand in the marketplace that hovers over me every day, it changed it all. I didn't have any choice.

That's my suggestion to the committee here today, Mr Chairman. I thank you for the opportunity to come.

**The Chair:** Thank you very much for taking the time and the trouble to appear in front of us and help us in our deliberations, Mr Poratto.

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ANDY HUMBER

**The Chair:** Our next presentation is Andy Humber. Good morning, Mr Humber.

*Interjections.*

**The Chair:** Excuse me, can I have order. Let's give Mr Humber our attention, ladies and gentlemen of the committee. Please proceed.

**Mr Andy Humber:** Thank you for letting me speak today. I'm a businessman and you may think I support this bill, but I object to certain parts of it and this is why I'm here today. My concern is about part-time firefighters.

My background is, for 19 years I worked selling compressed gases and medical gases. I worked 10 years for a company called Union Carbide, and then for nine years I owned my own welding/industrial/medical gas

business. I sold it about 10 years ago and moved to Sudbury and semiretired. I now own approximately 350 apartments here in Sudbury.

Excuse me, I'm going to be a little nervous until I get comfortable with this. It's the first time I've had to do this.

**The Chair:** I sometimes get nervous too so don't worry about it.

**Mr Humber:** I'm going to talk about what I used to do and what I do today and why I'm concerned about this bill. When I sold industrial and medical gases — I'm not sure if you know how a fire works but when you light a match it burns because of 20.8% oxygen in the atmosphere. The air is composed of 78% nitrogen, which is inert. Things burn because of oxygen. We sold compressed oxygen in the cylinder form you see in hospitals and welding shops. It's 99.9% pure. We sold it in bulk tanks. You see big medical oxygen cylinders sitting next to hospitals. It doesn't burn; oxygen is non-flammable. It supports combustion, makes things burn much better.

When we store gases in my welding supply shop — they're usually sitting in residential areas — we store hundreds and thousands of oxygen cylinders; we store acetylene cylinders — acetylene's an extremely flammable gas; we store hydrogen, nitrogen, argon and all other sorts of specialty gases. If we have a fire in a welding supply house, you better be sure that the fire department gets there in two or three minutes. My concern is, of course, if you have a part-time firefighter, is that response time going to be there?

I had an incident in Timmins, which is where I had my welding supply business, when an acetylene cylinder ignited on my cylinder dock. Acetylene is like that. You can shake it, move it and it can ignite just on impact. If you took an acetylene cylinder and dropped it off the top of a building it would explode, just on impact. We take the acetylene gas and we dissolve it in acetone.

I'm not trying to get too complicated here but this is the business I was in and I understand it. Probably the only other people who understand it as well as I do are firefighters. They know that welding supply houses are high-risk areas. They know where they're at and they know what to do when they get to our shop.

In this case I had an acetylene cylinder ignite on my cylinder dock with oxygen cylinders and hydrogen cylinders and all other types of cylinders laying around. The fire department got there within a couple of minutes and they knew exactly what to do. They got a hose on it. They hid behind their fire truck obviously for fear of an explosion and got water on the cylinder and cooled it down. It was burning. Once they got it cooled down they were able to get it on the back of a truck and get it to a dump site and let it burn itself out. Nothing happened because of the fact that these firefighters knew what they were doing. They're full-time, professional firefighters. They are well aware of the hazards that we sold.

In this city there are five or six welding supply houses. There's one over near the new Sudbury shopping centre in a residential area. It stores hundreds of thousands of cubic feet of oxygen and other gases. There's one on Lorne Street. There are a couple on Kelley Lake Road. There's one up on Falconbridge Road; it had a fire a



couple of years ago and fortunately the firefighters were there, contained it and we didn't have an explosion.

I'm not trying to scare anybody but I will tell you that if you have an incident, you will lose a neighbourhood. Normally industrial compressed gas houses or places that store these gases are in larger cities where you don't have volunteers, or if you do have volunteers they would not do this type of work. Normally, these places sit in populations over 50,000. You wouldn't have my business in a town of 8,000 or 9,000 people, because they couldn't support my business. There are usually five or six of them, and they sit in highly populated areas and they're spread all over town. The firemen know these are high-risk areas, as I mentioned, and they know what to do when they get there, but they've got to get there fast.

That's one of my concerns. Then I'm going to move on to my next concern, if that's okay, or does anybody have any questions?

**The Chair:** Just proceed.

**Mr Humber:** When I got out of this business, I moved to Sudbury and I became a landlord. I bought a piece of property about four years ago — I believe one of my tenants spoke here earlier — and it's a 181-unit apartment building. It's 18 floors high and it's the tallest building in Sudbury.

When I bought the building, the first thing I did was call the fire department and say, "Can you tell me if this building is safe?" They came over and did a wonderful nine-page survey of my building that I was thinking about buying and told me what I should do to make it safe. They didn't charge me for this. They did a complete study. Maybe if it was a private company that was running the fire department, they would have charged me thousands of dollars for this report and maybe I wouldn't have had it done, but I did it because the service was available. Then I did everything they told me to do. I spent around \$200,000 to retrofit the building to the new fire codes. I did it because the building is full of older adults. There are approximately 300 or 350 people in the building. It's 18 floors high, and I don't know if you know, but the ladder only goes about nine or 10 storeys high.

Then I had a fire in the building. A couple of years ago I had a fire on the eighth floor. Would it be okay if I read this article that was in the paper, or parts of it?

**The Chair:** Sure, go right ahead. It's your time.

**Mr Humber:** "Hundreds of apartment dwellers were evacuated from their homes and a senior citizen was sent to hospital following a Saturday morning fire in the city's tallest building. The Sudbury fire department was called at 9:17" — by the way, they had a three-minute response time — "to Rockview Towers, 1250 Ramsey View Court, where fire gutted an eighth-floor apartment in the 17-storey building."

"Everyone in the 181-unit building, which houses more than 350 tenants, was evacuated. Tenants had to use the stairwells to get to the main floor, since elevators cannot be operated during a fire."

"The lone tenant of the apartment building where the fire broke out, Audrey Loney, was helped down the stairs by a neighbour and taken by ambulance to hospital. 'She

was in shock, but she was conscious,' said Andy Humber, owner of the 20-year-old building. Loney was treated at Sudbury General Hospital and released in the afternoon. 'She's fine; a little upset but she's doing okay.'"

It talks about renovations but: "Other tenants said they were grateful their building is well-constructed and the fire did not spread to other apartments. 'We just had to go downstairs for a while and then we came back up,' a seventh-floor tenant said. 'We didn't even smell smoke.'"

"A 14th-floor tenant said she and her husband smelled a little smoke, but that was all: 'We heard the fire bell. We walked down and we went out for coffee. When we got back at noon, everything was fine. You could smell smoke a bit, but that was all,' said the woman, who did not want to be identified."

I'll stop at this part of it. The reason they didn't smell smoke was because again the firefighters were there within three minutes. They had their fans on and they got the smoke out of the building. We had retrofitted it as per what they had told us to do. We had a situation where an apartment was completely gutted out and there was no other damage to the building. All older adults in the 181-unit apartment building; there are no children. Most of the people are in their 50s, 60s, 70s; I have tenants into their 90s.

I believe the fact that we have full-time professional firefighters is why nothing happened in this case here. The fire department worked with me before I bought the building, I retrofitted it as per their instructions and I believe I had a safer building. After the fire, we had to do a fire watch. The firefighters worked with us on it. From start to finish it was — I shouldn't say a pleasant experience, but I think it could have been worse, and I believe this is because we have a three-minute response time and they're able to get there as quickly as they do. I believe this could have been a worse situation.

I also own a 98-unit townhouse project in Sudbury, in the south end of town. I had a fire in a townhouse there about a year ago. These townhouses are all connected together in units of six, 10 or 18. In this case a tenant had stored flammables in the basement. A can of ether had leaked, had hit the furnace, when the pilot light came on we had an explosion. I checked the response time of the firemen and it was three minutes again. It's in the same area. They got in, they contained the fire, did what they had to do and they were able to keep it in the one unit. We had about \$50,000 or \$60,000 worth of damage. But again they were there quickly and they did it professionally.

My concern is that we're going to lose that service that's available to us. You can't put a price on some things and I don't believe we can put a price on that. As a business person, I can understand that cutbacks are necessary, I realize that, but there are a couple of things we can't touch and those are policing and firefighting. I don't think we can put a dollar value on what these guys do.

That's about all I have to say.

**The Chair:** The time has elapsed in any event, but we appreciate your coming forth and telling us about your personal experiences in relating to the fire services here in Sudbury and your business. Thank you very much.

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## JENNIFER KECK

**The Chair:** Our next presentation and last for the morning is Jennifer Keck. Good morning, Ms Keck.

**Ms Jennifer Keck:** I have to admit I'm as nervous as the last speaker, but I'll try and overcome it.

I want to thank you for the opportunity to make this presentation. My name is Jennifer Keck. I'm an assistant professor at the school of social work at Laurentian University, but I'm not presenting today in my capacity as an academic; I'm presenting very much as a private citizen. I have several concerns about this legislation and what I perceive as a potential threat to public safety.

I should state at the outset that I am not an expert on fire prevention or safety, but I do have a personal connection. My father was a professional firefighter and a prevention officer, and I was raised to respect firefighting as a profession and an essential service that requires considerable training and skill, where workers have to respond to dangerous and potentially life-threatening situations on a regular basis. I also have some understanding of the rigours of shift work and the nature of this work and the impact it has on working conditions and family life.

I'm proud to have been raised in this environment. It gave me a fundamental respect for the nature of public service, but I fear the impact that many of the changes outlined in this legislation will have, both for public safety and the conditions of work that firefighters face on a day-to-day basis.

Bill 84, as you know, consolidates several pieces of legislation and sets out a new regime for collective bargaining. It's probably not a bad move to be consolidating this legislation, but I think it's unfortunate that it includes several conditions that have the potential to threaten public safety.

My comments today are restricted to two main areas you've heard about already from a number of presenters. They are the use of part-time firefighters and the potential for privatization in the bill.

The definition of firefighter under the existing legislation refers to full-time firefighters assigned exclusively to fire protection or fire prevention duties. Bill 84 refers only to persons assigned to fire protection services. There is no requirement that firefighters be full-time. This could include part-time workers as long as they are employed regularly and on a salaried basis.

There's little rationale for this change except to cut salary costs. There is simply no good reason to turn to a part-time model. It won't be more efficient and it will reduce the quality of service.

Part-time workers do not make a stable and steady workforce. This is one of my big concerns with the legislation. Simply put, qualified, trained staff will not be able to afford to do this work part-time. Part-time workers won't have the same access to training and there will be a slower response time. I think the speaker who just presented before me gave a very compelling story for the reasons behind a quick response time. At the present time it takes four years to become a first-class firefighter.

The argument that municipalities are not obligated to turn to part-time workers I don't think cuts it here. Cash-starved municipalities are going to be looking to any possibility to cut costs. They are going to turn to part-time workers, as soon as the opening is available in the bill. They will do this because the province has forced them into that position. The question earlier was, if municipalities haven't been doing it up till now, why do we think they're going to use provisions in the new bill? Well, why are we putting them there if we don't think they're going to use them?

I have tremendous respect for volunteer firefighters. In the rural township where my cottage is located, we have a dedicated team of volunteers who battle fires. In fact, we had a recent fire last summer where they did an incredible job. They are people with regular jobs who have to find the time to train, practise and put effort into building a team, and they do that at considerable cost to themselves and to their families. I don't think this the way to run a full-time professional firefighting force in a large urban setting. I think the fires you've heard about this morning are good indications of why we can't depend on that type of service.

I understand no one was talking about expanding into volunteers. But I think the problem arising around part-time workers is going to diminish your full-time stable workforce.

The second issue I have is the definition of employer in part IX. Under the existing legislation, the Fire Departments Act, municipalities are considered sole employers of firefighters and operators of fire departments. The provisions in Bill 84 allow for the term "employer" to apply to persons or organizations that employ firefighters.

The threat of privatization I think is very real in this bill. The private sector does many things well, but running essential public services is not one of them. The prospect of running a service that is as fundamental to public safety as fire protection strictly for a profit motive does not make sense. Ask any small business person. The primary motive for running a business is profit. What price do we put on a life saved from a fire rescue? I think the stories we heard from the two firefighters this morning are compelling in that context.

The experience in the United States with this type of operation has not been successful.

Recently, government members have tried to play down this part of the bill: Municipalities will not be forced to privatize their services. I think this gets back to the earlier question. I'm sorry, I don't know who raised it, but if municipalities have been doing a good job up till now, why are we concerned that they're somehow going to jeopardize service? Municipalities will not be forced to privatize their services, but I don't think the province can back out of this question easily.

Provincial governments must take responsibility for setting standards. How are these standards going to be met when some of the services are public and others are private? What pressures are municipalities going to be under after this latest spate of downloading to cut whatever costs they can? This is a new world. I assume all of you know that from your work at the Legislature. Municipal governments in particular, with the cuts that are



coming down right now, are going to be looking for ways to cut costs. If the government isn't serious about allowing for the possibility of privatized services, and there seems to be some indication from the news reports that people are saying, "We don't think it's going to happen," if we don't think it's going to happen, take it out is my suggestion.

I concentrated just on those two changes, but I think it's very important that we understand this will have an impact on safety. It will allow for understaffing, slower response time and more poorly trained staff. Studies have confirmed that the key factors in an emergency situation are rapid response times, qualified staff and effective teamwork. These changes in working conditions I think could have an impact on public safety.

However, there's a broader question in this bill, and the earlier presenter Ray Poratto touched on it at least from his particular political perspective: Just what is the role of government? I think it's wrong for us to see this bill as somehow a split between the private and the public sector, and I think the person who presented before me made an excellent case for why the private sector has a firm stake in a strong public service.

The people who argue these changes in the public sector argue that it's a way to reduce government, fight the deficit and free the taxpayer from the heavy hand of government; downsize the public sector and the private sector will run things more smoothly. Yet there are few examples of where this has actually been the case, particularly in essential services like firefighting.

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Firefighting was not always considered an essential service, but that certainly has been the common view of it since the Second World War. There have been tremendous changes, particularly since the 1960s, and we've seen them in Sudbury since the 1970s, advances in technology, increased training and added responsibilities, but most people still view firefighting, like police protection, as a fundamental and essential service. We don't want it taken over by the private sector and, yes, we do want a full-time professional firefighting force.

I'm speaking to you today as both a citizen and a taxpayer, and I'm saying that I think it's very important that we have a full-time firefighting force. The changes in the legislation, as I read them, are a threat — at least these changes. There are lots of good things in this consolidation and I'm sure you're going to hear from people who are going to talk about some of the other strengths, but I think it's unfortunate the bill includes these provisions that, in my view, are definitely going to be a threat to public safety and to the working conditions of the people who maintain these services.

**Mr Bisson:** Thank you for coming to make your presentation. More of a comment than a question is that we heard from earlier presenters, and you repeated in this presentation, about the whole issue of private sector versus public sector. There seems to be, on the part of this government, a very strong belief that there should be a lessening of the responsibilities of the public sector and a transferring of those responsibilities on to the private sector.

Like you, I don't have a problem ideologically with a strong private sector in businesses such as mining or forestry or retail or building cars. Clearly they have a role to play, and I wouldn't want to see the public sector involved in that area, but when it comes to essential services, certainly to God we need to understand that the key word is "service," not "business," and it's important we say that.

The other thing is that one of the early presenters — I forget the name — talked about how people speaking out in opposition to this are just unionists, those rabble-rousers who are always out there trying to foil every advance ever made in society. I would say to the government, thank God there were unionists in our society for the past 100 years, because many advances that working men and women have made in this province and in this country would not have happened if it hadn't been for those rabble-rousers asking for just little things, like livable wages and working conditions that we take for granted today.

More importantly, I think we've seen in these hearings that there have been far more than just troublesome unionists who have come forward. I've heard the chamber of commerce, the bastion of support of this government, in the town of Elliot Lake, like others, saying, "Listen, there are problems with this legislation."

We agree that there are some components, when it comes to fire prevention and public education, that are good. My party agrees with that, but there are some real problems. I agree with you when it comes to the question of privatization, the question of the introduction of part-timers and other provisions in the legislation. I hope the government hears your call that we make amendments to make this a strengthening of fire suppression and of public education, fire safety education, rather than a lessening of services in Ontario.

**Mr Ron Johnson:** Good question, Gilles.

I have a question for you. I want to thank you for your presentation. You had, I heard, two huge concerns. One was privatization, which I completely agree with you on. I've got some significant concerns with that, although I think it's important that we define the bill in terms of privatization about fire suppression. There are fire departments now that privatize things like dispatching services, for example. I don't think that the government, in this legislation, should take that option away. On fire suppression services, however, I happen to agree with you completely.

On the issue of part-time, what if the bill specified part-timers as being suitable for something like community education training as opposed to fire suppression services? Would that satisfy your concern?

**Ms Keck:** Not really, because I think the issue — why are we talking about part-time workers in the first place? If we're saying that we have these needs and these requirements for work in a fire department, what's the rationale for going to the part-time worker? Why not stay with the full-time complement?

Part of the problem, and I think this picks up on Gilles Bisson's issue earlier, is that the underlying part of this act is: "Let's cut costs. How can we provide adequate services" — I'm assuming the same level of service

we're offering now — "with fewer people? Let's try to figure out ways we can do that."

I'm arguing that I don't know if that's a particularly good rationale for doing that. I'm not an expert in terms of how the division of work is organized within a fire department, but I do think it's very important that we understand that fire prevention is at least as important as fire suppression services and that we should be looking at that requiring full-time workers.

**Mr Ramsay:** Jennifer, thanks for your presentation. I share your view. I especially liked the way you finished off contrasting one of the previous presenters who just felt the world could be one big glorious private sector enterprise and that there maybe wasn't really a need for good essential public services. I think it's a balance, like you say, a partnership, and as Mr Bisson said, there's a place for both sectors. I think we can work together and not see it as a conflict. I think that's important.

You make a very good point too on privatization. If the government is not intent on suggesting to municipalities to privatize, and this is what the Solicitor General says, then why not clean up the act and make it a clear intent to the people of Ontario that thou shalt not privatize the fire department? I think that would be the way to go and would relieve a lot of concern.

I'm just wondering, with all that's in here, why you think we have a Bill 84. Why do you think that, as I call it, this loaded gun is being handed to the municipalities to maybe do all the things you're against, like part-timers and privatization?

**Ms Keck:** It's a sneaky question, but I think it's part and parcel of a very similar theme we're seeing in other government legislation right now. I don't think it's any secret that I have a great deal of difficulty with many others of the changes the government is making right now.

I think one of the big concerns is the context in which this is being introduced, and this gets back to the question I was trying to answer earlier, where the question was, "If municipalities have been doing a good job and have been guarding public safety up till now, why are we saying this is something new that we have to — why do we have these fears?"

I think the fears are very real, because if you're going to talk about considerable restructuring of municipal finances and then you put into it where municipalities are going to be looking at cutting costs, and then you take a bill that actually consolidates a number of pieces of legislation that should be consolidated, and then you put these kinds of loaded clauses in them, it took me — I'm university trained and I know that doesn't always mean a whole lot necessarily — quite a while —

#### *Interjections.*

**Ms Keck:** My speech is to everybody here. Some of the opposition members are picking up on the criticism I have on it and that's very important, but I think the government has to hear that this is a broad public issue.

I'm hoping this committee is going to go at this in the true spirit it should be at, that you want to look at what are the benefits, the strengths and the weaknesses of this legislation. There are some good things here, but you can't load it with these other things and introduce it in

the context that you're introducing it and not expect that cost-cutting isn't going to be a major part of what people are going to do with it when they have to implement it.

**Mr Ramsay:** I apologize for these sneaky questions.

**The Chair:** You are quite right. You've got to watch these lawyers especially.

**Mr Ramsay:** I'm not a lawyer.

**The Chair:** Oh, you're not a lawyer, Mr Ramsay. You sure act like one sometimes.

**Mr Bisson:** Excuse me, Chair, have you just insulted my colleague from the opposition party?

**The Chair:** That wasn't an insult; that was a compliment.

I thank you very much, Ms Keck, for taking the trouble to attend and assist the committee in its deliberations today.

We will now be recessing until 1 pm sharp.

*The committee recessed from 1159 to 1302.*

### CITY OF OWEN SOUND

#### ONTARIO MUNICIPAL HUMAN RESOURCES ASSOCIATION

**The Chair:** Good afternoon, ladies and gentlemen. Our next scheduled presenter is the Ontario Municipal Human Resources Association, Mr Dail Levesque. Welcome and good afternoon.

**Mr Dail Levesque:** Thank you very much, Mr Chairman and members of the committee. It's good to be back in Sudbury. I drove up from Owen Sound yesterday, but this is my home town so it was a homecoming exercise for me as well. I stayed with my mom and dad and got a great meal last night, which I bet you can't claim.

**Mr Ramsay:** A good night's sleep too.

**Mr Levesque:** Darned right.

**Mr Carr:** We can go to your mom's tonight.

**Mr Levesque:** I'll invite you all over. My mom would be glad to cook for you.

I'd like to take this opportunity to thank you for allowing me to appear before you and to present certain positions respecting Bill 84, the Fire Protection and Prevention Act.

I'm here today representing two groups, actually. First, I'm here on behalf of the city of Owen Sound. The elected council has reviewed the positions contained in this submission, has endorsed those positions and has allowed me to come and present them to you on their behalf. Second, I am here on behalf of the Ontario Municipal Human Resources Association. We represent the HR practitioners in many of the municipalities across the province. In fact all of the full-time fire departments in this province are serviced by members of our association in the municipalities in which they exist. The submission contained herein has been endorsed by the association and has been filed with the Solicitor General, Mr Runciman.

As you can well appreciate, both of these groups have certain responsibilities related to fire services in the province of Ontario. Municipal governments such as the city of Owen Sound are responsible and accountable for fire protection and prevention as part of the municipal service structure. The HR professionals within these



municipalities are part of the partnerships that exist within the municipal structure that help make the delivery of efficient and effective fire services possible.

On Monday past I was with Terry Mundell, the president of AMO, at his side, and appeared before you, at which time Terry outlined for you the recommended changes and positions of AMO respecting Bill 84 and the fire protection and prevention services in Ontario. The city of Owen Sound and the Ontario Municipal Human Resources Association add their voices of support to those recommendations as well as those additional ones found in this submission.

I won't attempt to read the entire submission, but rather will briefly highlight some of the recommendations contained herein.

Part II of the act deals with issues that speak to the responsibility for fire protection services. It must be made clear in this act that the responsibility for the overall administration and structure of the municipality will be vested in a head of administration. That is in keeping with the changes to the Ontario Municipal Act and this should coincide with the direction that's taken place in that particular piece of legislation. It must follow, then, that the fire chief, like any other municipal department head, must report up through the head of administration. There is no doubt that the fire chief and his or her staff must provide guidance, and will provide guidance and direction, in all matters pertaining to fire services. This will be best accomplished by operating within a proper structure up through the administrative head to council.

Part VI of the act, in particular section 19, addresses who is an inspector under the act. In reading this, we think it should be amended so that (a) it recognizes the existence of the fire inspectors now performing this function and (b) provides municipalities with the flexibility to enable fire inspections to be performed in conjunction with other municipal staff such as building inspectors.

Part IX of the act deals with various aspects of employment and labour relations. This submission respectfully requests that a number of changes and additions be made to Bill 84 to assist the parties in dealing with these issues.

The definition of a firefighter should be expanded to exclude any other employee of the employer not employed as a firefighter or assigned to fire protection services. This would clarify the status of employees in other departments within a municipal structure who regularly provide services to a fire service.

It is recommended that sections of the Ontario Labour Relations Act respecting unfair practices, strikes and lockouts and their enforcement be included in this act. This would provide definition, guidance and remedies to the employer, fire association and employees respecting things like fair representation, employer interference, illegal strike or lockout situations and the obligation to bargain in good faith.

The inclusion of a mandatory conciliation process is a very positive step. We think some changes should be made here, however, dealing with the conciliation and arbitration process to clarify the payment of costs. Each party should be responsible for their respective costs when participating in a conciliation-arbitration process,

but the cost of the arbitrator and/or the conciliation officer should be split 50-50 with respect to their services provided at the time.

With respect to the issue of management exclusion, this act does meet the goals and objectives that municipalities have long pursued. It is recommended, however, that sections be added to the act to provide for additional exclusions in the eventuality that single-tier fire services are realized in our large urban centres such as Metro, Ottawa and Hamilton-Wentworth. In these cases, fire departments of approximately 1,000 or more employees could be realized.

If one could point to that section of Bill 84 that causes the greatest concern in the delivery of fire services, it is that section dealing with automatic aid. There is no doubt that tools such as automatic aid will greatly enhance the efficient and effective management of fire services. This tool will, however, go largely unused unless relief from the current no-contracting-out provisions in some form is provided for.

There are many examples in this province of situations where a fire station belonging to one municipality is within a few hundred feet of the houses belonging to another municipality, and yet because of geographic boundaries and the no-contracting-out provision contained in the collective agreement, that station cannot respond to a fire if it were to occur. This is an intolerable situation and does nothing for public safety, which is one of the goals of this act. Some mechanism must be found and incorporated into Bill 84 that will allow municipalities to utilize the fire services of neighbouring municipalities in an automatic aid situation.

Similarly, municipalities must be provided with relief from these no-contracting-out provisions so as to enable resources to be shared or utilized across the entire municipal structure. Much cost reduction and reorganization has been done to the vertical silos that we call departments in municipalities. Municipalities are now looking horizontally across these silos to achieve further efficiencies. We must be allowed the flexibility to include fire services in this exercise. Areas such as mechanical, training, inspections and communications are a few examples where the sharing of these functions across a municipality may realize additional efficiencies.

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In closing, I would like to convey on behalf of the city of Owen Sound and the Ontario Municipal Human Resources Association overall support for Bill 84. This bill has been a long time coming. Our executive director, Mr Terry Hallman, has been actively trying to renegotiate the terms and conditions of this fire act for in excess of 25 years. Not one t has been uncrossed, not one i has been undotted.

I would ask, on behalf of the groups I am representing here today, that the committee support the adoption of the recommendations contained herein. Thank you very much.

**Mr Carr:** Thank you very much for your presentation. I just want to ask a couple of questions regarding the automatic aid that you talked about on page 3 of your submission: "This tool will, however, go largely unused unless relief from the current 'no-contracting-out' provi-



sions in some form...." What's happening out there now as a result of some of these provisions? I would assume we still have a situation where the closest fire station would respond. We've heard a lot about how speed is very important in this business. I don't think we're having a lot of abuse of the system, but am I wrong in that regard in what's happening in the province now?

**Mr Levesque:** With all due respect, the closest station cannot respond. I will give you an example in the regional municipality of Ottawa, where you have stations that the city of Ottawa has constructed right on the boundaries between the city of Ottawa, the city of Nepean and the city of Gloucester. They can literally spit out their windows and land in the city of Gloucester or the city of Nepean. They cannot respond to a fire call in those municipalities. A city of Gloucester or a city of Nepean firehall responds to those calls regardless of how far away they are from it.

I fully respect the good work that these fire departments have done in locating these firehalls within reasonable response areas, but none the less it would be a lot more efficient and a lot easier. There are situations in Toronto where one fire truck rolls right past another station in another municipality to get to another part of its geographic area.

**Mr Carr:** Thank you. That was a good clarification.

Regarding the issue of conciliation and arbitration, as you know, there's much debate with many people in the labour field of the validity of conciliation and whether it works. There are a lot of people who say conciliation, while it might not always solve the problem, will narrow down the issues so that even if you have to go to arbitration, it's part of the process that works. There's no doubt there are people on both sides, regardless of your political stripe, that like some sections of it and some don't.

You're in favour of it. How do you see the conciliation helping before you go to arbitration? There's some who argue that if both parties don't want to and they're headed to arbitration, why have conciliation if you're just going to not come to a resolution? Is there any validity to trying to get the number of items that they're debating down through conciliation, and how do you see that working?

**Mr Levesque:** My experience with conciliation is a very positive one. I have been about 25 years in the municipal sector, started here in the municipality of Sudbury. I started on the labour side. I was a CUPE rep for a while. I am now the director of human resources for the city of Owen Sound. Conciliation has, in my experience, solved problems. It has been beneficial in narrowing down the issues before they go to, for example, an interest arbitration with a home for the aged.

There is no doubt in my mind that a conciliation officer providing those services between an employer and a fire association could have a benefit in terms of narrowing the issues. That has a direct impact on the costs. If you ultimately go before an arbitrator with one or two items, it's a lot cheaper to pay an arbitrator for a day rather than five or six days when you're arguing 200 items or 30 items or whatever it may be. The fewer items you get before an arbitrator, the less time and the cheaper the cost.

**Mr Ramsay:** Thank you for your presentation, Mr Levesque. I just want to ask you to clarify for me your second paragraph under your part IX submission, that the definition of firefighter should be expanded to exclude any other employee of the employer not employed as a firefighter or assigned to fire protection, that this would clarify the status of employees in other departments within a municipal structure. I don't quite understand that. What does that mean?

**Mr Levesque:** Currently, you have a fire department that may provide its own mechanical services. They may have their own mechanic. In other municipalities, you will have a municipality with a large public works garage that could provide the mechanical services. There are municipalities where that does happen. There is always an argument whether those mechanics are part of the fire association or part of the CUPE bargaining unit, and I have been in situations where that argument has arisen.

With respect to the inspectors, one would be able, without getting into a jurisdictional dispute with either a CUPE bargaining unit or a fire bargaining unit, for example, in a municipal structure, where you could utilize building inspectors, fire inspectors, health and safety inspectors, health unit inspectors to perform tasks that may be interrelated. These are training issues. Just as a firefighter who comes to a municipality is a raw recruit and is given the skills and the training through the municipality, through the fire college, through all of those excellent vehicles, there is no doubt in my mind that, given other training opportunities, other inspection-type people couldn't be utilized across the municipal structure who would be able to perform some of these duties; I'm not suggesting all, but there have to be and there are ways of doing this.

**The Chair:** Thank you very much, sir, for your presentation here today.

BRUCE WALKER

**The Chair:** Mr Bruce Walker. Good afternoon, Mr Walker. Welcome to the committee. I'd ask you to proceed.

**Mr Bisson:** Do we have a copy of Mr Walker's brief?

**Mr Bruce Walker:** I don't believe so.

**Mr Bisson:** All right. We'll just take notes. Thank you.

**Mr Walker:** Mr Chairperson, members of this committee, good afternoon. Thank you for allowing me the opportunity to speak to you today. My name is Bruce Walker. I am a full-time firefighter in Elliot Lake. I was a volunteer firefighter for five years and have been a full-time firefighter for the last 14. During my 19 years of service, I have responded to all types of emergencies. In nearly every case, I was a little fearful of what I was being called upon to do.

I am also quite fearful of what Bill 84 has in store for me if it is passed as it is presently written. I am opposed to Bill 84, as are all the firefighters in Elliot Lake. In particular, I am opposed to many of the proposals under part IX, because they affect my safety and the safety of the public I serve. I would like to discuss a few of the sections of part IX, which deal with firefighter employment and labour relations.



The definition of a firefighter in section 41 of part IX refers to "a person regularly employed on a salaried basis in a fire department." This definition does not specifically refer to a person as being employed on a full-time basis. The definition, thereby, infers that a firefighter could be employed on a part-time basis, and that's the area of concern for me.

In Elliot Lake, most of the firefighters have graduated from the Ontario Fire College and have been firefighters for at least 12 years. Because of their training and experience, I know what to expect from them and I can count on them under emergency situations. Part-time firefighters, though, obviously will not have the same level of training and experience as the full-time crew. I cannot have the same level of trust and faith in someone who is only a part-time firefighter. My safety, as well as the safety of the citizens of Elliot Lake, will be put in jeopardy if I have to work alongside part-time firefighters. In a fire emergency, we need the skills and experience of trained, full-time firefighters in order to deal with that emergency in an effective, quick and safe manner.

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Furthermore, if Bill 84 is passed without changes to this definition of a firefighter, then city managers could start to use part-time firefighters to actually replace full-time personnel. They could bring in part-timers to fill absences like vacations, statutory holidays or other scheduled leaves. They could even call in part-time people for emergency responses to fires, to auto accident extrications, hazardous materials spills, medical calls, whatever. How can I be expected to perform my duties with the same diligence and the same level of safety under these conditions? Taken to the extreme, the city could even try to eliminate all the full-time positions and give us all part-time status. If this government doesn't care about its firefighters, then I think it should at least care about the people whose lives we are here to save.

I urge this committee to make changes to the definition so there is no confusion about the meaning of just who is a firefighter.

Another area of part IX that concerns me is section 52. This deals with the scope of bargaining in collective agreements. In particular, section 52 states that "members of the bargaining unit shall not bargain in respect of the working conditions described in section 43." Section 43 deals with hours of work. This means that I will no longer be able to negotiate my hours of work, something which the firefighters have always been able to do before. It's totally unacceptable to me that the city of Elliot Lake should have the sole right to determine my hours of work.

Under section 43(2), the city could make us work up to 48 hours a week or any number of hours they choose up to 48. They could reduce my workweek to 30 hours, and I couldn't have anything to do about it; I wouldn't have any say in the matter. Would they make up the rest of the week with part-time firefighters? The only reason I can see for them to do this kind of thing would be to save a few dollars, but I think the real cost of these changes is going to be measured in terms of human lives.

Furthermore, under section 43, fire department managers will have the exclusive right to change my shift

schedule any time they want. This strikes me as being both unfair and disruptive to the normal working relationship that exists. I don't know of any other profession or any other labour group that cannot sit down and negotiate or discuss their work schedule with their employers. I would surely hope that you as a committee would make recommendations and make appropriate amendments to this section of the bill before it is passed.

The last section I would like to address is section 58. This deals with the number of managers in a fire department. Subsection (5)(a) of this section would allow the city of Elliot Lake to designate two firefighters as managers, and thereby remove them from the bargaining unit. These new managers would be in addition to the chief and the deputy. This would mean that we could have four managers for six remaining firefighters.

Less than four years ago, before our department downsized and restructured due to the loss of the mines in Elliot Lake, we had one manager and 13 firefighters. Now under Bill 84 we could have four managers for six firefighters? It makes no sense to me, unless this section was put into the bill simply to make it easier for the city to reduce the number of firefighters.

Furthermore, those firefighters named as managers will have no choice in the matter, no say about it. If they refuse the position, they could simply be terminated. The city has the exclusive right to designate these positions. It's not open to negotiation. It's not open to discussion. Reducing the number of firefighters in this way, if that's the reason for that being in the bill, or any other way will have a severe, negative impact on the safety of the public as well as the safety of the firefighters.

To add insult to injury, subsection (4) of this section states that these positions "may be revoked by the employer at any time." These new managers will have no protection for their jobs because they will be out of the bargaining unit. Can you imagine the anxiety that our senior fire officers, some of them with 20 and 22 years of service, must be feeling these days? Believe me, every time they come to work, they want to know what's going to happen with this section.

In very large fire departments, there may be a need for more managers, but I cannot see the advantage in a small department like ours. Clearly this section has to be amended in the interest of public safety and, I would suggest, to prevent the misuse of authority that could result if it stays in the act.

These are only three of the many areas of part IX that concern me as a firefighter. My job is hard enough at the best of times. To consider passing legislation which will deliberately make it more difficult to perform that job effectively and safely is nothing short of gross negligence.

I implore this committee to listen to these concerns, to listen to other concerns made by firefighters and the general public. I urge you to make the necessary amendments to part IX of this bill. I'm not asking you to remove part IX, I'm not asking you to scrap Bill 84, because the bill does have a lot of merit, especially in its focus on fire prevention and fire safety education; I'm just asking you to make some badly needed changes to correct some serious errors and perhaps some serious



oversights. We must not allow public safety and the delivery of fire services in this province to be weakened, as it surely will be if Bill 84 is passed in its present form.

I want to thank this committee for the work you're doing, as well as for letting me speak to you today on this very important matter. I would be happy to try and answer any questions you might have about the issues I have raised here today. Thank you all very much.

**Mr Ramsay:** Thank you, Mr Walker. I think you've really illustrated some of the shortcomings in this bill, especially when you talked about the management exclusion. I think that's exactly what it could be: to try to reduce the number of firefighters and possibly even break the union within a fire department. You could have a fire chief with the old command-and-control style, who didn't really work closely with the women and men in his department, say, "Bruce, you're a great, enthusiastic supporter of the union, but I really need you as our new director of human resources," and then next year say, "Bruce, we're having to cut down now — pressure from the council and everything — and sorry, we just can't renew your contract this year." So there's four of you gone right there in the case of Elliot Lake.

I don't know why the Harris government is mounting this attack on firefighters, but they seem to be doing that, and why you especially. I don't know any other group in Ontario that won't be able to, for instance, negotiate their hours of work. Can you shed any light on why firefighters seem to be the victims on this?

**Mr Walker:** Why we're being targeted or hit in this way is beyond me. I think the bottom line here of the government is cost-cutting. If it's just cost-cutting they're after, the cost is going to be human lives. That's just unacceptable to me.

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**Mr Bisson:** I want to get to the basics of understanding something. With fire departments across the province, the present shift systems that have been negotiated with various fire departments, as far as I understand, have never been a problem for either the management group or the firefighters themselves. If I'm wrong, correct me, but if that's the case, why would you need to be precluded from bargaining to negotiate your hours of work? What's going on here?

**Mr Walker:** That's my question. I don't know why they would take away what I would consider a basic right of any group: to discuss with their employer how many hours they're going to work and the scheduling of the shifts to complete those hours. It just astounds me that something like this might occur. I really don't have an answer for it.

**Mr Bisson:** Is the shift system a problem in your community for either council?

**Mr Walker:** No, and it never has been. I'm not saying it will be a problem, but why put into the legislation the possibility that it's going to create problems?

**Mr Carr:** Thank you very much for your presentation. I want to talk about the issue Mr Ramsay raised. Originally when I looked at this, I thought: "Nobody would do that. Who would do that?" But we have to make legislation that ensures — there could be some people out there who would do that. Looking at the good side of

people, I wouldn't see that there would be people doing that, but unfortunately there are some who may do that to get back at someone, as in the situation Mr Ramsay described.

Is there an amendment we could make to this section of the bill so that, for example, if they came to you, you could refuse, keep your same salary, and they could choose somebody else? Is there anything we can do to change it so that we protect you with the ability to say no and red-circle you at your salary? Is there anything we can do that would alleviate some of your concerns?

**Mr Walker:** Just what can be done I'm not too sure. In a small department like ours I personally don't see the need for us having another manager: four years ago, we had 13 firefighters well managed by a chief. We went to eight firefighters and a deputy as well as a chief, so now we had two managers for eight. I just don't see the need to go to more managers.

**The Chair:** I'm sorry, but our time is up. Thank you very much, Mr Walker, for your presentation.

#### SAULT STE MARIE PROFESSIONAL FIRE FIGHTERS ASSOCIATION

**The Vice-Chair (Mr Ron Johnson):** Our next presentation is the Sault Ste Marie Professional Fire Fighters Association, Mr Randy Richards.

**Mr Randy Richards:** Mr Chairman and members of the committee, thank you for allowing the Sault Ste Marie Professional Fire Fighters Association to make this presentation this afternoon. My name is Randy Richards and I'm the spokesperson and president of the Sault Ste Marie Professional Fire Fighters Association.

It is with great trepidation that we come before you this afternoon. We, the professional firefighters of Sault Ste Marie, believe that the safety of the citizens of Sault Ste Marie could be at risk if this bill becomes law.

Bill 84 evolved through intense lobbying by AMO, which is the Association of Municipalities of Ontario, the fire marshal of Ontario, the Ontario Association of Fire Chiefs and other municipally funded associations. Firefighter groups, such as the Ontario Professional Fire Fighters Association, were initially involved, but the agenda was already struck. It appears that Bill 84 is one of the carrots being dangled to go hand in hand with some of the provincial downloading.

However, the fire service does not belong to the unions. The fire service does not belong to AMO. The fire service does not belong to the fire marshal. The fire service does not belong to the fire chiefs. The fire service belongs to the public. The public must be aware that reducing fire department staff could affect their safety.

This has already happened in Sault Ste Marie. The Sault Ste Marie fire department eliminated five people last year: three front-line firefighters, one fire prevention officer and one apparatus officer. Fire departments do more than just fight fires. We are a multifaceted emergency service. Firefighters also respond to motor vehicle accidents, hazardous material incidents, public assistance calls, water rescue, high-angle rescue and any other types of emergencies. Our responsibilities do not end with emergency response. Departments also include fire prevention, training, communications and the mechanical



divisions. Speed, experience and teamwork save lives. When you eliminate any of these divisions, you affect the quality of service.

Bill 84 makes changes that can jeopardize the fire protection that the citizens in Sault Ste Marie rely on. Under Bill 84, full-time professional firefighters can be replaced with part-timers with much less training and experience. Taking into account the results of a citizen survey in Sault Ste Marie last year, we believe the taxpayers of Sault Ste Marie want a full-time professional fire service, ready to answer their call for help any time of the day or night.

I'd like to talk about privatization and contracting out. This bill opens the door to privatization and contracting out of the fire service. Do we want an American-style, for-profit fire service in Ontario or in Sault Ste Marie? We don't believe the public wants that. However, the city of Sault Ste Marie, plus many other cities, are exploring the possibility of merging or contracting out fire prevention duties, communications operations and mechanical duties. These changes will affect the safety of not only the firefighters but the public we are sworn to protect. Remember, there are no second chances fighting fires.

Bureaucratic expansion: Bill 84 will turn firefighters into managers. The fire marshal for the province of Ontario and the fire chiefs' association are advocating increasing managers by removing some officers from bargaining units. Our association believes that fire departments have a large resource of managers to call upon already. These include the CAO's office, human resources department, legal department, finance department and council.

Councils across Ontario have already reduced the number of middle managers. Why would the fire department increase the number of managers? This would do nothing to increase the level of fire service to the public. All this would do would increase the cost of the fire service, as these new managers would move into higher management pay scales and improved benefit packages. How will this improve the fire service? We don't believe it will.

We, the professional firefighters of Sault Ste Marie, are not afraid of change, but we, the providers of the fire service, are not involved in any of these changes. We have spoken with the citizens of Sault Ste Marie. They want and deserve a fully trained, fully equipped, full-time professional fire service.

Our association spoke at city council a couple of weeks ago with some of these kinds of concerns, and the fire chief from Sault Ste Marie, who is here today, explained at that meeting that he liked the way things are working right now. It's not his intention to have part-time firefighters or contract out the services we're already doing. That's what he believes and that's what we believe.

Thank you for listening to our concerns. Please don't allow this what we consider to be disastrous legislation to destroy the fire service in Ontario and in Sault Ste Marie.

1340

**The Vice-Chair:** Thank you for your presentation. We have two minutes per caucus. As the NDP caucus isn't here, we'll go to the government side.

**Mrs Marland:** Does the opinion of the chief about the use of part-time not give you assurance? If he is responsible for the protection of the citizens and that's his opinion, what would give you concern that that would change? Do you feel the council would override him?

**Mr Richards:** Yes, I believe that's what would happen. I believe the council, human resources officers, AMO will tell the fire chiefs what they have to do, and I believe a lot of the fire chiefs don't want some of these things.

**Mrs Marland:** The Association of Municipalities of Ontario hasn't told a municipality yet what to do, and I say that as a seven-year councillor in Mississauga. I'm not concerned about AMO. Do you not give credit to the elected people at the local level who have made decisions to equip fire departments?

I guess I'm a little biased about Mississauga's fire department, but every time the fire chief, who we felt was the professional, came to us and said, "There's a new kind of coat" or "There's a new kind of boot," we said, "Go for it," to protect our firefighters who in turn were protecting our citizens. Can you see that changing? Why would the bill change it?

**Mr Richards:** If there are a lot of fire chiefs in the province who don't want part-time firefighters, why would it be in the bill if there's nobody out there who's in the service who wants it?

**Mrs Marland:** I would suggest to you, with respect, that part-time firefighters exist.

**Mr Richards:** I'm not aware of any part-time firefighters.

**Mrs Marland:** I heard a professional yesterday in Thunder Bay tell us that there are 20,000 in Ontario, and there are 843 municipalities in Ontario. That much I knew. If we already have part-time existing in municipalities where they simply can't afford a full-time fire department, you wouldn't want to exclude them; they have to that protection.

**Mr Richards:** I'm not trying to exclude anybody. I think the public wants full-time professional firefighters and most of the fire chiefs I've talked to want it. I can't see why the bill would allow it to have something nobody really wants.

**Mr Ramsay:** Randy, thanks very much for coming over the Sault. As a northerner, I appreciate the distances within northern Ontario, and we're glad to see you here today.

You mentioned quickly in passing that Sault Ste Marie was maybe going to flirt with the idea of merging emergency services, that that's an idea that's there. I understand that just down the road from you on I-75 the town of Kalamazoo, Michigan, had flirted with that too. Do you have any experience with what Kalamazoo tried to do and what happened there?

**Mr Richards:** The only thing I would say is that it didn't work out like all the gurus thought it would.

My understanding is that in Sault Ste Marie some of the divisions of the fire service, some of the senior staff — it's their position that maybe we can merge some of these departments, maybe fire prevention with the building inspector or the mechanical division with the board of works. But the equipment we have has to work

when we need it. We're an emergency service. We don't want some of our equipment or trucks in a board of works garage at the back of the list to get fixed. We have competent, well-trained people right now; we want to keep them there. I think that's the best way to go.

**Mr Ramsay:** I agree. This whole notion of privatizing firefighting service, which this bill would allow, could really jeopardize firefighting in Ontario. As you probably know, there's been some experience of that in some of the United States; again, it hasn't been very successful. Do you think privatization would work here in Ontario?

**Mr Richards:** Privatization wouldn't work at all. You have to physically have the people at the firehalls, with the training to respond to calls for help. You can't have somebody who just does that once in a while to go. When people need help, they want it and they want some well-trained people to come to their house. That's why the citizens in Sault Ste Marie want a full-time fire department with professionals.

**Mr Ramsay:** I agree. Thank you.

**The Vice-Chair:** Mr Richards, on behalf of the committee, thank you for your presentation.

#### SUDBURY PROFESSIONAL FIRE FIGHTERS ASSOCIATION

**The Vice-Chair:** Our next presenter this afternoon is Mr Marc Leduc of the Sudbury Professional Fire Fighters Association. Good afternoon, sir.

**Mr Marc Leduc:** My name is Marc Leduc. I'm the president of the Sudbury Professional Fire Fighters Association, which represents 102 members. Our association has represented firefighters in the city of Sudbury for over 60 years. I'm also a district vice-president with the Ontario Professional Fire Fighters Association as well as being a firefighter in the city of Sudbury for the past 20 years.

I would like to thank the committee for allowing us the opportunity of speaking on Bill 84. However, with the time allotted we can only scratch the surface of the many concerns we have with the bill before us.

Last year our department responded to over 2,500 calls. As well as extinguishing fires, our suppression division responded to many other types of emergencies, such as motor vehicle accidents, hazardous material spills, water and ice rescues, gas leaks and explosions, broken power lines, confined space rescues and medical aid calls, including defibrillation.

The defibrillation program is relatively new to the Sudbury fire department and has proven to be very successful. In the first 18 months of this initiative, 13 persons in this community have been able to walk away from the hospital, thanks to early medical intervention. This is more people than were saved for the five previous years combined. Providing these services requires speed, experience, teamwork and ongoing training. Bill 84 will jeopardize all of these important factors which are essential in providing professional emergency responses that are expected and deserved by the residents of our community.

Bill 84 proposes to expand the bureaucracy within the fire department. At a time when most organizations are reducing their level of mid-management, the government

is advocating an increase of these positions for the fire department. The city of Sudbury currently employs a large management staff over and above the current four non-union positions in the Sudbury fire department.

On a regular basis we deal with the director of human resources, the commissioner of community services, the health and safety officer and the city manager as well as many other staff from city hall. Collectively, these persons are involved in almost all aspects of the operation of the fire department, including negotiations, setting budgets, establishing the level of service, and discipline.

Bill 84 will create an unnecessary level of bureaucracy. Furthermore, removing officers from the bargaining unit will have a negative impact on the teamwork that is absolutely essential for the safe operation of an emergency response. The people of our community want firefighter personnel on the front lines where they are needed and they are not interested in creating another level of bureaucracy.

Bill 84 expands the employer's ability to call in firefighters in case of emergencies. Firefighters have had no problem coming into work on their off-duty time to respond to major fires, floods and other disasters. We have done this in the past and will continue to do so. However, with the new definition of firefighter and no real definition of an emergency, this proposal will cause serious problems. Municipalities will be tempted to further understaff fire stations, only calling in firefighters once an emergency has occurred. Of course this will slow response times, placing the public and firefighters at greater risk. The precious amount of time required to conduct a safe and successful rescue operation will be lost.

#### 1350

Another great area of concern to our members and to the residents of Sudbury is the issue of privatization of the fire protection services. Bill 84 paves the way for municipalities to privatize their fire departments. Private fire protection has been around in the United States for a number of years. However, only a very small segment of their population is served by private fire protection. In these areas, for-profit firefighting has resulted in numerous problems. We do not need these problems in Sudbury or any other part of Ontario.

During the many conversations we have had with the residents of our community, they have expressed shock and total disbelief that this government would even contemplate such a proposal. The community expects fire protection to be provided by the municipality and they want and expect accountability for this very important service. In a recent citizen survey, the residents of Sudbury clearly indicated that fire protection was an extremely important service and ranked it number one in many parts of the questionnaire. The people are not interested in having their fire protection provided by large American companies that will tend to cut corners to maximize profits. In our business, cutting corners will only result in higher fire losses, increased risk to the wellbeing of the public and firefighters and inevitably higher insurance premiums.

In response to the government's suggestion this morning concerning the privatization of fire prevention divi-



sions, the committee must understand the role of the public educator in the fire service. The fire prevention officer is equally as important a role as the role of a member of the fire suppression. In order to fully understand the seriousness of the threat of fire to persons and property, it is critical that these persons come from the field of fire suppression. In order for the two fields, education and suppression, to work as a cohesive team, they need to be able to communicate on equal levels of experience and understanding.

Another area of great concern with Bill 84 is the introduction of part-time firefighters. This bill changes the definition of firefighter to include part-time firefighter. This should not be confused with volunteer firefighters, an area where we've seen a lot of confusion already this morning. Volunteer firefighters are absolutely essential to provide fire protection in many parts of the province in very low-populated areas. We have a lot of admiration for what they do, but they are a different kind of firefighting force. This bill would allow for part-time firefighters to make up a part of our on-duty fire suppression force and/or replace full-time firefighters with part-time firefighters.

Full-time firefighters in Sudbury work an average of 42 hours per week. It takes them four years to become a first-class firefighter and acquire all the skills required to perform the job as expected by the municipality and by the public. Even once a person becomes a first-class firefighter, much training is required to keep the necessary skills and to learn new techniques, running procedure, and the proper operation of the many pieces of equipment. Full-time firefighters in the city of Sudbury are required to do training during every shift. This is only so that we can keep up our skills. During an emergency we have to be able to do the job right the first time. We do not get a second chance.

Furthermore, over and above regular training, experience is a key factor when dealing with emergency operations. Not only would it be impossible for part-time firefighters to do the same amount of training, they would never gain the amount of experience as full-time firefighters. The introduction of part-time firefighters will lead to less experienced and less trained fire departments. This will have a detrimental impact on teamwork. The team will be much less effective.

Staff at the city of Sudbury have already indicated to our association that they intend to introduce part-time firefighters in the city of Sudbury. This may help the municipality meet their budget concerns but does absolutely nothing for the safety of the community and will make our already dangerous job even more risky than it is currently. Consideration must be given to public safety and firefighter safety. Therefore, the provision for part-time firefighters should be removed from the bill.

Further concerns we have with the bill deal with other labour provisions contained in part IX. For example, this bill would eliminate firefighters' rights to negotiate the number of hours they work or the scheduling of those hours. This is totally unacceptable. The hours of work should remain as a basic bargaining right, as is the case with most other workers throughout Ontario in and out of municipal government.

Bill 84 does not allow for successor rights. Successor rights for firefighters should be clearly spelled out in Bill 84. These rights are there for other municipal employees, and firefighters should have the same protection. Further, in some cases the lack of successor rights would allow municipalities that amalgamate or restructure to lower fire protection standards because they may not be bound to meet standards that have been negotiated over the years.

During the past few months, we have actively gone into the community to discuss Bill 84. Many people in the Sudbury area have expressed a deep concern with this piece of legislation. Over 7,500 people have signed petitions asking the Legislative Assembly to please listen to professional firefighters and amend Bill 84 to eliminate the threat to fire safety. We have also received support from 184 volunteer firefighters in the Sudbury area. They have indicated their support for the prevention elements of Bill 84. However, they do not support part IX of the bill.

Our association is greatly concerned with the direction that Bill 84 is taking the quality of fire protection and the labour relations with firefighters in Ontario. We are asking the government to listen to our concerns and those of the residents of our community. Public safety is much too important to ignore. Please listen to the front-line firefighters, the persons who are doing the job on a daily basis in our community and throughout Ontario. Make the changes needed to fix this bill.

Twenty years ago I signed on as a firefighter to help ensure the safety of my family, friends and all Sudburians. I and other professional firefighters have risked our lives willingly on many occasions. With this bill, you want us all to put our lives at further risk because you believe it will save a few bucks. Well, I think this is totally unfair.

On behalf of our association, I thank this committee for taking the time to listen to our presentation.

**The Vice-Chair:** Thank you, Mr Leduc. You have used up the entire 15 minutes. Thank you for your presentation.

1400

SHARON MURDOCK

**The Vice-Chair:** Our next presenter is Ms Sharon Murdock, please. It's my understanding that Ms Murdock is a former member of the New Democratic government. Am I right?

**Ms Sharon Murdock:** That's right.

**The Vice-Chair:** It's a pleasure to meet you.

**Ms Murdock:** It's a pleasure to meet you.

**Mr Carr:** A fine member she was.

**Ms Murdock:** A fine member, yes.

**The Vice-Chair:** Ms Murdock, you'll have 15 minutes for your presentation. You can begin any time.

**Ms Murdock:** I first of all want to apologize. I know we need 15 copies whenever we come, but I'm one of the flood victims in the city so I have been spending most of my time Shop-Vac-ing and, as a consequence, only gave one to each party and one to the clerk, but there will be copies for you later.

Good afternoon. It's interesting being on this side of the table instead of listening. I know I listened closely, so I hope you'll do the same. I thank you very much for the opportunity to place my comments before you. No doubt you've heard from many across the province about some of the concerns and the issues regarding Bill 84. I'm only going to deal with two of them that are of particular interest to me. I know we have been allocated 15 minutes, so I'll try and keep within that so you can ask me questions at the end.

Having been involved in the political spectrum in Sudbury and Ontario, I want to clearly state that my appearance here today is not going to be a partisan diatribe, you'll be happy to hear, about the wrong turning of the present government. Rather I'm here to speak on behalf of myself and all those who have opinions in this community on the subject of the kind of fire service they have and we have and will have in the future. However, most of them would not venture into this arena, so I'm going to speak on their behalf.

Fire safety is important to all of us. It seems like such an obvious kind of sentiment that it doesn't need any kind of statement to be made. Yet it expresses an underlying reliance by all of the people on a service that many of us in today's world take for granted. We just assume that we have the service, so it's always going to be there.

When I was elected, I worked for quite a while with our local chief and local firefighters on the recognition of the volunteer category of firefighter. We had lengthy discussions and consultations both here and in Toronto with those who actually perform the duties — just as your secretary is really the one who knows what's going on, not the upper echelons or the bosses, so you talk with the actual people who do the job — in trying to determine what kind of training and staff development volunteers would require to ensure quality service and how the work of volunteers could enhance the work done by the full-time, professional firefighters.

At that time and still today, volunteers were the norm in small communities — we have them here in Sudbury — but new legislation would enact their roles and the training and development aspects of the volunteer force would be emphasized. In that way, it was felt that the smaller communities across Ontario would more nearly have the similar kinds of services that larger urban centres get.

Strong considerations were aimed at the safety factor, not only for the community but also for the very firefighters themselves. It just makes good sense to have trained people handling all the ramifications of fire, without worrying about whether someone would get injured due to inexperience or lack of training.

For Bill 84 to now consider allowing part-time people to fight a blaze is quite mind-boggling. Like anything else in this world, diluting expertise does not make something better when it comes to skill, knowhow and knowledge necessary in making the myriad kinds of decisions one is called upon to make in the area of firefighting. I never realized, truthfully, how complicated firefighting was and the kinds of knowledge one would have to have to do that job. Nor is it a job I feel I would be capable of doing, I want you to know.

I want to know, I personally as a community person in this city and anywhere else that I choose to live, with certainty and not just a degree of certainty — I want to know for sure that if my office or my home or my parents' home or my neighbour's home is on fire or smoking, the people who respond to it know how fire moves, what walls to look at etc, and put it out so that it doesn't reignite. I want to know that. I don't want to have to wonder whether they have the requisite training or whether they have been pulled off a part-time police job or whatever to come and save my house. This argument is not phenomenally intellectual but just makes good, basic, common sense.

While in government, we were very instrumental in finally getting defibrillating equipment on fire vehicles. It took us a long time. It was a long time coming and a lot of conversation and consultation. Training on defibrillation followed that. It has been slow going, but it is being done. It meant that response time for heart victims was only a fire call away.

On a personal note, both my parents have now passed away. Both of them had heart problems and in both instances we had occasion to use the Valley East fire department, rather than the Sudbury fire department, because they're just a mile up the road. It's just nice to know, and you feel more certain and safe and secure that they are so close. I would like to know too that the people at those stations have the defibrillation training that's required. People in the community didn't have to wait for an ambulance if the ambulance was in another zone. I think that's important for the people.

Part-timers are just not going to be able to fulfil that need, in my view. Part-time workers, as we can see clearly in many other areas of work, do not receive the same kind of extensive training, nor do they have the opportunity to utilize what training they do receive to the same degree that the professional does. You can think of it in anything if they're only on on a part-time basis and only have so many hours per week. Employers, when they do provide training, try to provide it within the hours that they're working and not have to pay extra. You can see that if we allow this now and open the door to this, eventually all of our firefighters will be part-time in the not-too-distant future. I have real concerns that the skills needed for that service will not be as readily available with a part-time brigade.

We are soon going to be entering the 21st century, yet we seem to be reverting to a Little House on the Prairie mentality as to how our community will be served. In truth, if all our communities were the size of Walnut Grove, this idea of part-timers might work given the technological advances since that time. But Sudbury and other communities like us are not the size of Britt. Nor should the people of Ontario be expected to accept, at the behest of any government, a regression of fire service for their homes and families. At the very least, in the area of fire protection, leave it as it is.

In the concept of part-time firefighters I see the writing on the wall that those individuals would be a part-time firefighter and a part-time other government worker, where training for both jobs would be required. This possibility does not bode well either for the deliverers of the



service or for the recipients. In other jurisdictions where the concept of part-timers has been attempted, the record is abysmal, and this leads me to my second concern.

Philosophically, given my political stripe, I don't believe in privatization of a lot of the services that governments provide, and I see some of the changes in Bill 84 as clearing the path to an American version of privatization. I don't want to be an American. I've chosen to live here. I've had the opportunity to work in the States and have chosen not to do that. Nor do I want the lifestyle associated with the way Americans deliver services, be it health services, insurance coverage, education or fire-fighting.

I highly recommend that all of you read a book called *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector* by David Osborne and Ted Gaebler. It's quite good actually. I've recommended it as must reading for a lot of people because I think the time of some of the concepts has come. It talks directly to the issue of privatizing government services. All of it is very thought-provoking and some of the ideas are definitely worth looking at. However, it also talks about some of the problems that ensued following the implementation of these numerous experiments. It's all across the States, through all different-sized communities, and firefighting is actually discussed in a number of the examples. So I would strongly urge you to get a copy and read it.

It's an unfortunate thing to say but when the bottom-line profit margin is the prime consideration in the delivery of services such as firefighting, it is things such as cost of training, equipment maintenance, response time etc that get lost in the shuffle. It's not as if you can go to another store if you don't like the service; in firefighting you take what you get. Besides which, you've lost your worldly possessions in the meantime.

1410

With all of the downloading on to the municipalities presently being done and being considered, it only makes sense that municipal politicians, who will be fewer in number, are going to try and make their plate more manageable by downloading to the private sector. Although Bill 84 does not specifically talk about privatization per se, it is more than a real possibility.

I think it's very likely that if this bill is passed, it's only a matter of time before private companies will be vying to provide fire services. Municipal governments will be seriously looking at it, as they're doing with bus transportation right now. The consequence to the government in the future is major litigation. It is no coincidence that Americans are listed as number one as the most litigious country in the world, given how they handle the delivery of what I consider government services.

As I conclude, I want to make clear that parts of the bill relating to fire prevention aspects are very positive. It is not the entire bill that is of concern to me. It's in the areas of safety and how my home and your home will be protected, and it is there that I ask you to reconsider the language in the bill. I thank you for your time.

**Mr Ramsay:** Nice to see you again, Sharon. I appreciate your reference to David Osborne's book because I read that a few years back too, and I agree with you, it's

very thought-provoking, and you're right, I think there are some ideas in there that are worth looking at. Like you, I certainly draw the line at public health and security services that I think have to be retained by the public sector.

I think the reason is, for any sort of government-public service function, that the private sector rationale is to do well for the company. That's why they're there and that's a great intention and so they should. The public sector deliverer, especially in safety and security matters, is there to do good, to do the public good. Not only is that the mandate, but also through that is the direct accountability, through the local council, that they are there, mandated to do that for the people that elected that council. I think that's very important and I believe there should be a restriction in this bill so that fire services and police services are not privatized.

**Ms Murdock:** I think that would be a very smart idea, actually.

**Mr Bisson:** Thank you very much, Sharon, for your presentation. You have a unique perspective on this because not only are you a former legislator but you're also, by trade and by education, a lawyer, plus you were the parliamentary assistant to the Minister of Labour dealing with labour legislation. I've heard a couple of people make reference at this committee about how part IX and other sections of the act that deal especially with the labour relations side of things are going to lead to more litigation. Can you expand on that to some degree?

**Ms Murdock:** I think actually, having listened to Marc Leduc, the presenter before me, he probably explained it far better than I in one minute could possibly answer. But yes, the concept of successor rights and amalgamation, as he stated, I think would be of real concern if the municipalities are handed this.

Like I said, you're putting restrictions on the number of local politicians, you're giving them more work to do that the province used to do. You're limiting salaries for that work that they're going to do, and they're just not going to be able to function. They're not going to be able to do that work, so they're going to be looking for ways of joining things together, getting private companies to look after it for them, and I can see where there is going to be severe labour strife if a lot of these things go through.

**The Vice-Chair:** Ms Murdock, we have to move on.

**Mr Carr:** Unfortunately, Sharon, I don't get to ask a question but I just wanted to thank you for coming out. As a matter of fact, Pat and I were talking on the way up, we didn't know you were coming here. We had some good recollections of some of the stories of down there.

**Ms Murdock:** I'm watching the House now with great interest.

**Mr Carr:** And you wish you were not there. So good luck. Mrs Marland did have a question. Thanks for coming out.

**Mrs Marland:** You're watching the House right now with no envy at all, I'm sure. That's why we all have bags under our eyes.

Sharon, you do have a lot of experience. What I wanted to ask you, I don't know what you're referring to

when you're saying "fewer politicians" in terms of municipal politicians.

**Ms Murdock:** I know that the present government is asking for a lot of the areas to look at — we're regional government here — regional versus local municipality.

**Mrs Marland:** Does regional look after the fire department?

**Ms Murdock:** Yes.

**Mrs Marland:** Oh, it does. It doesn't in our area.

**Ms Murdock:** I also know that a lot of the municipalities are looking at joining services because of the downloading situation, and they're looking at reducing the number of politicians, just as you're reducing the number of trustees and school boards and so on.

**Mrs Marland:** And MPPs.

**Ms Murdock:** And MPPs. Yes, well, that's a mistake too, but we won't get into that one. So that it's —

**The Vice-Chair:** Ms Murdock, I'm sorry, we do have to move on. Our time has expired. Thank you very much for your presentation.

**Ms Murdock:** Nice to see all of you.

#### RON ROSS

**The Vice-Chair:** The next presenter is Mr Ron Ross, please. Good afternoon, sir.

**Mr Ron Ross:** I would like to begin by thanking the committee for the opportunity to speak about this bill. I stand before this committee as a citizen who is interested in any legislation that may affect me, my community or my province.

From concerns expressed by some parties involved, this bill certainly piqued my attention. News articles warned that this legislation may endanger lives. It is at this time that I decided to examine this issue and the bill more closely. I reviewed different information and different views. I also reviewed different media accounts. I also obtained the proposed Fire Protection and Prevention Act. In addition, I received some material from the Solicitor General's office. I also had the opportunity to speak with a fire chief of Sudbury and the president of the firefighters' union along with other firefighters. I reviewed all the information I gathered and it is with this background that I've formed these opinions.

It seems the government's objectives for this bill are clear. The government wanted to improve public safety, streamline services and reduce costs. I'm certain these are worthy objectives, objectives that can be agreed on by both proponents and opponents of this bill. It is with these objectives that I have formed the criteria that I used and that I think all concerned should use to evaluate this piece of legislation.

In my research I have identified what I consider important issues within the proposed bill that have direct effect on this community and other communities in the province.

There are three main sections to this bill that I would like to discuss today. First, the bill streamlines the fire protection industry by consolidating nine old and in many cases defunct statutes. As an example, the Egress from Public Buildings Act has been irrelevant since 1980. In fact, this is the first time in nearly 50 years that issues

surrounding fire services are seriously being dealt with. I think it's about time. Discussions with all parties concerned have transpired for many years and through different terms of governments. I applaud this government for its perseverance and determination that previous governments lacked in pursuance of this type of legislation.

The second section of this bill I would like to discuss is mandatory public education. In my research I discovered that 80% of fires are accidental and could have been avoided with greater fire prevention and public education. Fire prevention is the most effective way of reducing loss of life and property due to fire, especially in small communities. Over 30 coroner's juries concur with these facts and have called for a more coordinated approach to fire safety and fire protection.

In the past 25 years, fire deaths have dropped by 60% due to an increase in fire prevention and public education. I understand that fire prevention and public education are already practised in Sudbury and in most municipalities in this province, but fire prevention and public education, being so integral to a major decrease in fire deaths, should definitely be incorporated and even mandated into law. We must remember that being proactive is always better than being reactive.

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Next I would like to discuss the concerns that some parties involved have with this bill, that the bill will leave the door open for municipalities, and in turn fire departments, to hire part-time firefighters. When I first investigated this area, it seemed strange that there was no part-time help available or even acceptable by law. Some opponents to this bill cite that part-time firefighters would not be as good as full-time firefighters and that this will endanger lives.

I think that's a statement that is almost an insult to all volunteer firefighters past and present who have actually founded fire protection in this province. I agree that training and experience are ingredients that make a good firefighter and I'm confident that part-time firefighters will receive great training, and experience will come in time, as it does with all firefighters.

The part-time position may be considered the first part of a graduating system that will see a new firefighter move up the ranks and become a first-class firefighter. It would seem that opponents of this section, namely, the firefighters, may indeed be primarily concerned with their own jobs.

Discussion with the fire chief of Sudbury outlined what the benefits of part-time firefighters would accomplish in this region. Presently, any firefighters on short-term leave, long-term leave or even on vacation time need to be replaced by a full-time firefighter at a cost of time and a half. Hiring a part-time firefighter to handle these shifts in personnel could greatly realize savings without cutting manpower. This section would definitely reduce the costs and could actually improve public safety, and therefore fit into the government's objectives.

In conclusion, I believe this act is a sound piece of legislation that meets all its objectives and lays the framework for fire services in this province to fulfil the needs of the communities in which they serve.



**Mr Bisson:** Thank you very much. First of all, congratulations for having come forward. You've obviously demonstrated an interest in the issue. I don't necessarily agree with your point of view, but that's your point of view and I think you have every right to present that.

Part of what you said I agree with and I think there's nobody who's arguing — anyway, I haven't heard firefighters, fire chiefs, municipalities or opposition members talk about being opposed to the fire prevention and education components of the bill. Wherein lies the problem is the other parts of the bill that deal with the introduction of part-timers and the privatization issue. You categorize that as basically like politics of self-interest. Is that clearly how you see this, as just firefighters worried about their jobs and we shouldn't listen, they're just whining anyway? Is that what you're saying?

**Mr Ross:** I think firefighters have some legitimate concerns. I don't believe their concerns are well founded. I don't think what they foresee in the future will eventually happen.

**Mr Bisson:** The problem is it's not just firefighters. I've heard chambers of commerce, business people, apartment building owners, people from a multitude of different walks of life come forward and say, "We like part of the bill that deals with education and fire protection because we think that's a step in the right direction," but when it comes to the other side of it, there are some real concerns.

I thought there was a most excellent presentation this morning from two firefighters who demonstrated by way of video in their presentation a rescue in which they were somewhat successful, unfortunately not totally successful but successful in being able to save the life of a young person, the point being made is that unless you've got people working together, understanding —

**The Vice-Chair:** Mr Bisson, we have to move on. Sorry about that. Moving over to Mrs Marland, two minutes.

**Mrs Marland:** Mr Ross, I too would like to commend you, because you are the first, if I may say with respect, younger person, and you've obviously done a lot of homework. It's great that you're interested and that it mattered to you enough to do that research.

There is an example I would like to give you, coming from admittedly a large municipality of almost 600,000 people: In Mississauga we have full-time firefighters who live in rural communities, and obviously there are lots of other densely urban areas where the firefighters also choose, probably very wisely, to go home to a rural or less urban community. Those full-time firefighters go home to those rural communities where they are protected in a lot of cases by volunteers — never mind part-time, but volunteer firefighters — yet they feel they're safe to be living in a community where it isn't a fully manned, full-time force.

I'm wondering if, in your research, you came across any discussion of the risks being greater with volunteer forces, knowing how many volunteer forces exist around the province and the protection those people enjoy, including full-time firefighters who choose to reside there.

**Mr Ross:** I don't believe I stumbled upon any discussion, but when comparing volunteer firefighters and

part-time firefighters, I believe they get all the same training as full-time firefighters, so I don't see that as a big problem.

**Mrs Marland:** It's interesting that the full-time firefighters don't see it as a problem to live in those communities either.

**Mr Ramsay:** Ron, I also want to salute you for coming out. It's good for a young person as yourself to get involved in things like this. I just feel, though, when you do your research like that, that you need to be careful not to confuse between volunteer fire departments that serve our smaller communities. I live in one, Margaret, and as a matter of fact we didn't have fire protection for years and finally —

**Mrs Marland:** And do you feel safe?

**Mr Ramsay:** As safe as I can, but I wish we could afford a full-time professional fire department.

**Mrs Marland:** You wouldn't live there if you didn't feel safe.

**Mr Ramsay:** But it's important not to confuse the issue of volunteers and working in a low-density municipality and doing what they can there with part-timers entering as potential teammates in emergency situations in high-density urban centres with full-time professional firefighters. There's a very different degree of alertness and training that's required. Professional firefighters, who sometimes are out three or four times a shift, get into kind of a zone that this is their job.

They do it every day. They don't have to leave work. They don't have to do some of their training in the evening after a heavy day at the plant or the mine. This training is there, as one firefighter said, every shift. They're always having to do some pre-fire planning to try to keep up to speed with all the myriad of changes that are out there today and the chemicals they have to do. While volunteers do a great job, there's no way they've got the training, the expertise and the skill level as honed as somebody who does it every day on a professional level.

The concern I have for the people of Sudbury or any other centre that has a full-time professional firefighting squad is that I don't think public safety should be jeopardized because we are worried about budgets and deficits. There are some things that we have to say, that regardless of the cost of the service, it is of the utmost importance for the people of Sudbury to have a first-rate professional firefighting squad so we can prevent as many deaths as we can.

You mention here that 80% of fires can be prevented, and with better fire prevention maybe we can do a better job on the 80%, but still there are those 20% that we all agree for sure are going to happen anyway. We always have fire, unfortunately we always will, and we need a first-class professional firefighting squad to go out there and protect all of us.

**Mr Ross:** When I was considering the idea of part-timers — first of all, I agree that we should have a core of professional firefighters who are experienced — but considering part-time to full-time, at one point every firefighter is inexperienced, and they become experienced by working on the job. I thought a good idea would be — maybe this committee could look at this — a

graduating type of approach, where a firefighter comes in as a part-timer, moves into full-time and then becomes a first-class firefighter. That's just the way I looked at this issue.

**Mr Ramsay:** You see, it's important to have the day-to-day experience, to work every day with them, to get that experience.

**The Vice-Chair:** Mr Ramsay, I'm sorry, we're out of time. Mr Ross, on behalf of the committee, thank you very much for your presentation.

1430

KEN FRASER

**The Vice-Chair:** Our next presenter is Mr Ken Fraser. Are you Mr Fraser or Mr Newman?

**Mr Mike Newman:** I'm Mr Newman.

**The Vice-Chair:** Apparently, just for the committee members, in my understanding Mr Fraser is ill, and Mr Newman will be reading his deputation on his behalf. Am I right?

**Mr Newman:** That's correct, sir.

**The Vice-Chair:** You can begin any time, sir.

**Mr Newman:** Good afternoon, committee members. Like I say, Mr Fraser fell ill and was not able to attend, although he did want to discuss with you in great length, I know, Bill 84, which is before the House right now. He did, however, send this short letter. It's not going to take 15 minutes, I can guarantee you, but he does make his feelings known on the situation.

"My name is Ken Fraser. I am now retired after serving 40 years in the fire service, first with the Canadian air force, and then I was hired by the North Bay fire department. I retired as a captain in fire suppression in 1990.

"I now live in a condominium complex in North Bay that primarily houses seniors. Since moving into this condominium I have become a member of the board of directors. I have taken on the responsibility of coordinating, with the help of the fire department, an evacuation and overall fire plan for the building.

"Of the 56 units in our building, 50 house senior citizens. We have several wheelchair-bound members living on the third and fourth floors. Others requiring various walking aids are found in units throughout the complex.

"I and the entire board of directors at the Woodlands II complex became deeply concerned after hearing of the proposed changes that will affect our fire department under Bill 84.

"For everyone fire is a scary thought. But once you become a senior, especially one living in a multiple-storey building, the thought of fire and being trapped becomes deadly. This government has to realize that with an aging population in Ontario, emergency services need to be enhanced, not cut back.

"From my 40 years' experience as a firefighter I can assure you I understand how having part-timers and less than minimum full-time manning of fire trucks will erode fire department effectiveness. It takes manpower to fight fires and perform rescue safely and effectively, and you need that manpower fast, not whenever they can make it in.

"Full-time firefighters provide a valuable service in North Bay and the rest of Ontario that cannot be measured in dollars and cents. We did not vote for this kind of government policy or for a government that puts saving money ahead of saving lives.

"I urge this government to rethink parts of Bill 84 that will hurt the way full-time firefighters work. We pay a lot of taxes in Ontario and we expect quality service, full-time service, not part-time.

"Bill 84 is fundamentally wrong. Change it and consult the firefighters first.

"Sincerely, Ken Fraser."

**The Vice-Chair:** Thank you, Mr Newman. There is some time left. If you have any thoughts of your own that you might like to add, you're certainly more than welcome to add them.

**Mr Newman:** I'm not prepared to do anything more than read his letter.

**The Vice-Chair:** Understood. I just thought we'd give you the option.

**Mr Newman:** Thank you very much.

**The Vice-Chair:** Thank you very much, sir.

**Mrs Marland:** May I just say something?

**The Vice-Chair:** Briefly, go ahead.

**Mrs Marland:** I would like, Mr Newman, for you to convey to Mr Fraser that we too share the concerns about fire protection for everyone, but particularly I want to refer to the example he gave about seniors and people with immobility in high-rise buildings, because those are a special burden for fire departments as they exist. Although this bill doesn't deal with building code changes, if I'm correct having read it, one of the building code changes that I personally would like to see, which I think would address Mr Fraser's concern, is that we have mandatory sprinklers in high-rise buildings, seniors' buildings and retirement homes.

I'm from Mississauga, and we had the tragedy in the Meadowcroft retirement home. Frankly, if that building had been sprinklered, we wouldn't have had the tragedy. It just wouldn't have existed. We would have still had the fire start, but the sprinklers would have been the solution.

We as a government are looking at making sprinklers mandatory, because in the long run they'll be cheaper for new buildings than building in standpipe systems and certain other building code requirements that exist today, supposedly to stop the spread of fire. I feel very strongly about the points Mr Fraser has made, and I appreciate hearing his letter.

**The Vice-Chair:** In fairness, Mr Ramsay would like to make a couple of comments.

**Mr Ramsay:** I also have some thoughts you could pass on to Mr Fraser, and I want to thank you for doing that for him, because I know it's not easy to come up before a committee such as this and make a presentation. I thank you for that. It follows along the line of the member for Mississauga South, who just spoke.

It would seem to me that if the Harris government was really concerned about fire safety, they would make those amendments that Mrs Marland talks about to the fire code and make the changes that coroners' juries that have studied deaths by fire in Ontario have recommended year after year after year. Those are the things that really



could save people's lives, rather than just attacking firefighters, how they work, and attacking their ability to negotiate their working conditions. This is more about labour law than it is about fire safety. I think there are a lot of good things out there that we could incorporate, and hopefully, working with all the members, we can do that.

**Mr Newman:** Certainly I'll pass that on.

**Mrs Marland:** I just have a point of information for the committee.

**The Vice-Chair:** Okay. One moment, please. Mr Newman, thank you very much for your presentation on behalf of Mr Fraser.

Our next presenter will be Linda Gomes.

Mrs Marland, you had a point of information.

**Mrs Marland:** Yes. Just as Ms Gomes is coming up, I think it's important to tell the committee members who don't know that the government is bringing in those changes to the building code that I just addressed, and others. There are apparently something like 80-odd recommendations from the fire chiefs and the firefighters themselves, and those changes are going to be made. It's kind of interesting, because they're very straightforward changes that the two previous governments could have made had they chosen to as well, but didn't.

**The Vice-Chair:** Thank you, Mrs Marland. We're going to move on to our presentation.

#### LINDA GOMES

**The Vice-Chair:** Miss Gomes, you'll have 15 minutes for your presentation. You can begin any time.

**Miss Linda Gomes:** Mr Chairman, members of the standing committee and members of the public, thank you for this opportunity to address you on the issue of Bill 84. My name is Linda Gomes, and I am the current vice-president internal of the student union at Nipissing University in North Bay.

As an elected student representative, I believe in what I work towards and have faith in our student government. My job as a representative of students is much like yours in representing the people of Ontario. I feel we have a purpose, and it's our duty as leaders to ensure that the needs of those we represent are met within the community.

Student politics, however, is very complicated within itself. There are many issues at hand and there's often much red tape involved with these issues, very much like what you are trying to accomplish with this bill. Thus, it's easy for us to sometimes lose sight of what our main purpose is — that is, for me, to protect student rights; and in your case the rights of citizens — and somehow fall into other issues and routines and slowly distort our priorities.

I must admit I have little experience with fire prevention issues and do not claim to be an expert on Bill 84, but my concern as a student leader is for public safety, and my contention is the basic definition of a firefighter and how fire protection and prevention will operate if Bill 84 is in place.

In the past three years at Nipissing University I've lived in residence. Residence at Nipissing means 87 houses, six students per house, perched on the top of a

hill in North Bay. It's a beautiful place to live, but it's also in a precarious location. For instance, during the winter, classes are often cancelled because vehicles can't even traverse the hill. Can you image if we had a fire? Now, let's just say some firefighters are able to overcome the obstacle of the weather and make it up the hill. In this case we need quick response, and that to me means a full-time firefighter. When firefighters arrive, students want the best trained, best equipped, and to me, that also means having full-time firefighters.

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The second issue that concerns students and that may arise from Bill 84 is dealt with in subsection 41(1), the redefinition of an employer of a firefighter. It redefines the employer of firefighters from the principle that municipalities were the only employers to a situation to include persons and organizations which could become the employer, which means privatization.

Now, for students isolated on the top of a hill, this may be scary. What was once considered a high standard of public safety may be reduced to a business where profit would be a major concern. Some things should not be controlled by the almighty dollar. Safety is one of those things.

In closing, I think we've lost sight of what it means to be a firefighter. We cannot afford to reduce the standard of protection as demonstrated through speed and teamwork. We depend on this.

Subsection 43(10) gives me the perception that we may at some time feel the need to operate a fire protection organization by calling in, hopefully, adequately trained individuals to miraculously come together as a team and attack a situation where speed and teamwork are vital. This to me is somewhat of an oxymoron.

The bill appears to allow the opportunity for an employer to have a staff of both full- and part-time firefighters, which would in turn allow for fire stations to be staffed at different levels. Since the term "major emergency" is quite ambiguous, an employer would have the flexibility to recall firefighters in various situations.

Ladies and gentlemen, I don't pay taxes, but it won't be long before I and other students are part of the labour force and contributing economically to society. I can assure you that public safety is something we would be happy to contribute our tax dollars towards and is something we do not want to see jeopardized.

Thank you for giving me this time to speak, and good luck in your deliberations.

**The Vice-Chair:** Thank you for your presentation. We have about three minutes per caucus.

**Mr Ramsay:** Thank you for your presentation. You must be almost around exam time now.

**Ms Gomes:** I am actually in the middle of exams.

**Mr Ramsay:** Well, good luck on your university career. Thank you for coming, and I appreciate the perspective from a student leader. I think that's very important and makes an important contribution to the committee.

I agree with you. What you're saying is that it's important to have full-time emergency services. You make a good point that this type of service really shouldn't be run as a business. It sounds very attractive: "Well, if we

just run everything like a business, boy, everything will be just so efficient. That would be great, and we could cut all taxes." But it's like buying insurance, having those firefighters at the firehall. Sure, it might be nice to say, "Well, gee, maybe they could be off patrolling a neighbourhood as a community police officer or something," but that's not going to give us the insurance when the fire breaks out. While that may be attractive at first glance, especially to a municipal council that's really under fire from the provincial government and has a big reduction of revenue resources, it's just not practical in the real world where a fire can break out at any moment.

Thank God we have those professionals there, ready to go at a moment's notice. As you probably have heard from some of these presentations, the response time in Ontario is very, very impressive, in some cases three and four minutes. An entire fire squad is at the scene of a fire and extinguishing it very, very early and saving lives.

I agree with you, and thank you for making the presentation, and again, good luck with your exams.

**The Vice-Chair:** Thank you, Mr Ramsay. Seeing no one from the NDP caucus, we'll move to the government side.

**Mr Carr:** We're both trying to be kind and ask the other one if they want to take it, so I'll take it. Thank you very much for your presentation. I appreciate it.

You mentioned section 41 of part IX regarding the definition. Is there anything you'd like to see in that definition? Is there any idea of how you'd like to see that section worded? You've got some concerns. Is there anything you could suggest, how you'd like to see that particular section worded to alleviate some of those concerns?

**Miss Gomes:** You mean the definition of firefighter exactly?

**Mr Carr:** Yes.

**Miss Gomes:** Probably I don't really have any suggestions, but I think we're just steering away and making it a larger definition when it's very simple. I'm not really sure, but I just feel that in the bill they're steering away to include people who aren't as qualified as we've thought firefighters to be, and as experienced and with the proper training.

**Mr Carr:** Actually this doesn't have anything to do with the bill, but I was curious as to what you are taking at school.

**Miss Gomes:** Psychology.

**Mr Carr:** Well, good luck. We could use a couple of them around here. Good luck with your exams. I'm sure you'll do very well and hopefully you'll have a great future. I guess Mrs Marland has a question.

**Mrs Marland:** No, I don't have a question, but I wanted to say to you the same thing that I said to Ron Ross, that I really am impressed that you're here, and especially if you're in the middle of your exams. It's wonderful to think that the future of our province is going to be in the hands of young people like you and Mr Ross. It's really commendable that you've made the effort to research the bill and write your presentation, which you made in a very excellent way. No wonder you're president.

**Miss Gomes:** Vice-president.

**Mrs Marland:** Vice-president.

**Mr Carr:** President next year.

**Mrs Marland:** Yes. But no wonder that you're already in a leadership role, and congratulations for that.

**The Vice-Chair:** Miss Gomes, thank you very much for your presentation.

## NORTH BAY PROFESSIONAL FIRE FIGHTERS ASSOCIATION

**The Vice-Chair:** The next presenter would be Mr Grant Love, North Bay Professional Fire Fighters Association. Good afternoon, sir.

**Mr Grant Love:** Thank you. Mr Chairman, members of the standing committee, OFM staff and members of the public: My name is Grant Love and I am here today as president of the North Bay Professional Fire Fighters Association.

We have always encouraged and advocated the advancement of fire protection and public education. However, despite all the increases in prevention and education, emergencies from fires, vehicle accidents, hazardous materials spills, medical trauma and ice/water rescues, just to name a few, will continue to be realities and require quick, effective response to save lives.

The North Bay fire department and the firefighters have been providing dedicated service to the citizens of North Bay for more than 104 years. The implementation of Bill 84 threatens our ability to deliver the same professional service in the future.

Probably the greatest asset professional firefighters have while performing during life-threatening situations is the aspect of teamwork. This is built on from the first day a new recruit walks through the door. Every member, once basic training with the training division has been completed, is assigned to a platoon, and they continue and in effect become an extended family to that person when they're on the platoon. Acceptance is based on performance and attitude and is gained from living and working under stressful situations with the rest of the team. Full-time staff ensures that the team is cohesive and they always work well and try to help each other.

In existing legislation, the fire chief can call in off-duty firefighters to respond to an emergency only when there is a fire, flood or other disaster which requires the service of every full-time firefighter. Bill 84 would permit the employer to call in off-duty firefighters to respond to any major emergency, and this would make it easier for an employer to call in off-duty firefighters to respond to any call. This encourages employers to set lower on-duty staffing levels and supplement its department with less-trained, part-time municipal employees on a call-in basis.

The situation created by this call-in provision will be dangerous, not only to the full-time firefighters and the part-timers who may be coming in, but also to the public, who will be getting less service than they currently expect and are currently paying for. We see no problem with the existing legislation, as it does allow for what we have done in North Bay. We have negotiated a call-in procedure where they can call in with flexibility as to what is happening.



In recent years the North Bay fire department has been the subject of three studies. These studies have always been at the request of the city council. They were done by the Underwriters of Canada, the Ontario fire marshal's office and a private consulting firm, Donald Baird and Associates. In none of these studies was it ever mentioned that the citizens in North Bay were overprotected by their fire department. In fact, all of the studies were critical of our staffing levels at best.

To quote from the Ontario fire marshal's report handed down in May 1991: "North Bay minimum manning for vehicles must be four to each pumper, including an officer, two to the rescue truck and at least a driver assigned to every other piece of in-service apparatus." The fire marshal has also concluded that anything less than a four-person pump crew cannot handle interior fire attack or rescue operations or be expected to establish a water supply from a hydrant in a reasonable time.

Studies from Ohio State University and the Providence, Rhode Island fire department found that firefighters' injuries decrease 43% to 46% by having four-member crews over three.

1450

The current language in Bill 84 encourages less than safe minimum standards for fire safety, standards that are endorsed by the National Fire Protection Association, the Ontario fire marshal and other professional fire protection agencies. We are also urging the government to listen to us, the people who currently deliver fire protection and rescue services in Ontario, to take a moment and to look at the whole idea of privatization of the fire service, something this bill seems to endorse or at least opens the door to. Private firefighting companies are very rare, and why is this? Because it doesn't work.

Rural/Metro of Scottsdale, Arizona is one of the most known private fire companies. Without getting into dozens of facts and figures, as we're sure you've already heard them or they've already been put before you, we will only say that after their poor record, it speaks for itself.

During a recent petition drive in North Bay, we discussed with the public the possibility of their fire department under Bill 84 and also how privatization is a very real concern. They spoke out with more than 8,500 signatures and were firmly against privatizing any emergency service in our city. In fact, for the second time in two years they told us they did not want to see anything less than they presently receive now.

Fire fighting for profit risks both firefighter and public safety. As you've heard before, a fire doubles in intensity with every passing minute, and coroners' inquests routinely identify response time as a key factor in saving lives. The reason most fires in North Bay do not provide newsworthy damage is that we have an average response time of four-and-a-half minutes, which allows us to extinguish fires quickly.

During a meeting on November 22, 1996, with our member of provincial parliament, Mr Mike Harris, we discussed various parts of Bill 84. When we asked about part IX and its intent, he responded, "There's no doubt about it: Part IX is put in to allow municipalities a way to save money." In our view, this is in light of the mas-

sive transfer payment cuts to municipalities, and now the government needs to provide them with easy solutions. If in fact any part of Bill 84 is a financial offering for the municipalities to recoup some of the lost income from transfer payments and other areas, and not the poorly disguised "act to promote fire prevention and public safety in Ontario," as is touted, we are very disappointed.

Mr Harris was also surprised to hear that certain items expressed under part IX would no longer be able to be negotiated between the parties.

We, as professional firefighters and taxpayers in Ontario, understand that the public purse is not a bottomless pit. We cannot understand the backward approach to fiscal restructuring pursued by part of this bill, especially when safety is not promoted first. Full-time firefighters were never consulted, as promised, about possible changes to the act.

The question is, will money be saved by downgrading fire protection services? After increased fire losses, user fees, insurance premium hikes, law suits and unfortunately loss of human life, we don't think it will.

In August 1993, the North Bay fire department responded to a call to a fire. This was in a fifth floor apartment. When the equipment arrived, the aerial operator immediately put up the ladder to assist in the rescue. If all the equipment had not been able to respond together, the following letter, which we received to present to the committee, would not be here now.

"Late one night in August 1993, fire broke out in my fifth floor apartment on Lakeshore Drive in North Bay where my family lived. Both my husband and I were out, but our two children Ryan, who's now 7, and Kassie, who's now 5, were at home with my niece Tina. Before they knew what was going on, they were all trapped inside this raging inferno. I cannot tell you what these circumstances mean to a mother. I don't believe either of my children or my niece would be here today if it wasn't for the dedication, commitment and fast reaction of local firefighters.

"Reaction time was everything in this case. Firefighters hardly waited for their trucks to stop before they were inside our burning apartment. The first arriving truck crew quickly scaled the stairs to the fifth floor, where they encountered heavy smoke. Upon finding the involved apartment they quickly doused the flames in the living room area and went to my children's screams. Finding the first child, they quickly brought him to safety. Upon re-entering and searching the apartment, it was discovered that arriving crews had set up the aerial and gained access to our fifth floor apartment and rescued my other child and my niece Tina.

"Without the firefighters' quick response they would have been helpless, as is often the case in a devastating fire. It wasn't just first arriving heroic firefighters, it was the coordination by the entire response team at the scene, combating the fire and the search and rescue of people trapped inside the building. My family and I had lost everything we owned at the time, but our children and niece are here with us today. Until your family is the victim of fire, and I hope they never are, you don't know how important it is to have full-time professional firefighters on the scene in the quickest time possible.

"When I heard what was being proposed in Bill 84, I had to write this letter to tell you how important quality fire service is. We literally owe our lives to these men. We can't allow people to perish because of the lower service that would result from Bill 84.

"Sincerely,  
"Thalina Dool."

Good governments listen as well as act. We are asking you to make some reasoned amendments to protect the safety of our community. Please stand up for public safety by going back and telling the government that Bill 84 has some serious problems. However well intentioned Bill 84 may have been, part of it has a negative effect on public safety. Tell the government how to fix the problems we all know are there. Don't add a bureaucracy to firefighting, don't encourage the use of call-ins, don't encourage the use of part-time firefighters or private fire service, and don't approve a bill that disrupts almost every aspect of the firefighters associations, for no reason.

The North Bay firefighters urge the committee to listen to front-line firefighters like us and tell the government public safety is too important to ignore. Make the changes that are needed and fix the bill. On behalf of the North Bay professional firefighters, I want to thank the committee for the opportunity of providing input into Bill 84. We appreciate the work of this committee and your concern on the public's safety. It is definitely not an easy job when dealing with changes to public safety in time of restraint, and we thank you for doing it.

**The Vice-Chair:** Thank you, Mr Love. Mr Bisson, one minute.

**Mr Bisson:** In the minute that I have, your last comment that you made, that it was important that governments listen as well as act, I think is a point well taken. In fact, there is, as we speak, a filibuster happening at the Legislature which is all about that whole issue of trying to get this government to finally listen to some of the people in this province about some of the things that people are upset with.

I'd be really interested in getting some of the information you have in regard to the meeting you had with Harris, because I think that's quite an admission on the part of the Premier to have said, contrary to the Solicitor General, that this will result in the ability of municipalities to lessen fire services. Is that indeed what he said?

**Mr Love:** What he told us was, there was no doubt about it, the fact that part IX was definitely made to save the municipalities money. When we asked him about the safety aspect, he said he didn't know how that would change.

**Mr Carr:** Thank you very much for your presentation. There isn't much time in one minute. It certainly is difficult now in the public sector, not only in your area — I think Randy from the Sault said he'd already had five members laid off. It's tough with nurses. We've got federal employees being laid off. There is no doubt it is a very difficult time. You mentioned that you had some problems already, even before this bill passed, that you're dealing with on the number of men on the trucks and so on.

As you know, some areas have done well, others have had some concern. There isn't much time, but is there any way you can expand on some of the problems you're having right now, even before this bill passes?

**Mr Love:** We've been able to build up, through the chief and through council, to where we are now, which is a reasonable staffing level. We have four to a pump, two to the rescue, one for the aerial, but they had to work at it. In fact, council keeps asking for studies every couple of years to try and show that we should be able to cut back. Our concerns are, what are essential services when you're comparing that some members of the council say it could be an arena or a firehall we have to close type of thing?

**Mr Ramsay:** Welcome, Mr Love. I'd like to follow up on that line of questioning, referring to what the fire marshal said in his report in regard to the manning of a pumper using four firefighters and that this bill could certainly allow a lesser manning of a vehicle like that. Has anything changed since 1991 that would allow a fire department to safely and effectively lower the manning of a pumper from four to less men or women on there?

**Mr Love:** I don't believe so. In fact, the last study that was just done, which was completed in the last year and a half, sort of congratulated and said: "You're at where you are now. The minimum should be kept at four."

**Mr Ramsay:** What you're saying is that there's still pressure from the council, though, to try to reduce that load if they can.

**Mr Love:** Definitely.

**The Vice-Chair:** Mr Love, on behalf of the committee, thank you for your presentation.

1500

LYNNE BENNETT

**The Vice-Chair:** The next presenter is Ms Lynne Bennett, please. Good afternoon. You'll have 15 minutes for your presentation. You can begin any time.

**Mrs Lynne Bennett:** I won't take 15 minutes of your time. Mr Chair, members of the committee, my name is Lynne Bennett. I have been a resident of North Bay for 14 years and I have been a city councillor for the past 12 years. I am currently the deputy mayor and chair of the budget committee. While I'm not here today representing the views of council — actually I wish I was — my municipal experience is the context for my remarks. I thank the committee for this opportunity to speak to Bill 84.

I'm here today to show my personal support for North Bay firefighters in their efforts to keep our community safe. They have good reason to be concerned that Bill 84 will make it easier for municipalities to understaff fire stations, use part-time staff or even privatize our fire department. These are exactly the kinds of options our council considered during its recent budget discussions and I have no doubt will consider again next year.

It is not easy to run a municipality these days. North Bay has seen a reduction of close to \$4 million in transfer payments over the past two years. This year we propose to raise taxes to maintain levels of service, but what about next year? The prospect is overwhelming



when I consider the extensive downloading that is occurring at such a rapid pace with little or no information about implementation or cost.

While Bill 84 in itself appears to be less dramatic in the grand scheme of things to come, it is none the less significant. It is a clear indication to me of how this government believes business should be done and it offers municipalities a quick fix for our financial predicament without considering the consequences. It paves the way to privatization. We all want to see less expensive and more efficient government and services, but at what cost? I certainly believe it should never come at the cost of risking the safety of our community and our firefighters.

In conclusion, I believe this legislation heads in the wrong direction when it suggests we need fewer firefighters and relies on firefighters on call. Are we prepared to compromise the quality of service and risk delays? I also believe that privatization is not the answer to providing all services. We need only look to the American experience. Should people's lives depend on how much profit can be made? Do we need these problems here? I think not.

I am not as prepared as some of my colleagues are to buy into this government's agenda. My job as a municipal politician is to try to do what is in the best interest of my community. I don't believe those parts of Bill 84 I've referred to serve that interest. I thank you for this opportunity to share my views with you and I hope you will give them serious consideration.

**Mr Carr:** Thank you very much for your presentation. I agreed with the part where you said it's very difficult being government, whether you're municipal, federal or provincial. There's no doubt about that. I wish we were in the better times of the days past in all areas. But you also go on to say that some of the things that people have concerns about — privatization, understaffing and part-time — you've already considered, which means you could already do that if you want.

There are some people who lead us to believe this bill will allow you to do it but you can't now. What the government is saying is that you could do it now and nobody has done it. There's an argument saying, "If you don't want it done, preclude it." But what the government is saying is, this doesn't change anything.

What you seem to be saying is that that's the case. You've looked at, as you say in your presentation, privatizing, use of part-time and so on, and you've rejected that. But nothing in this bill changes that from where it is now. They could do it. You seem to be saying that you already looked at doing that. So what in this bill changes from what's already there and what you've already looked at and rejected?

**Mrs Bennett:** The reason it was rejected by our council in its discussions was they were under the impression that the collective agreement precluded them from looking at part-time staffing, but they were very interested in that possibility. Some of the problem was lack of information about Bill 84, which I don't blame on anybody here at this table, but when you look at the enormous amount of things that are coming in our direction, that's going to be one of our problems, that things like Bill 84 are just one of many. In our municipi-

ality we're part-time councillors, so you're asking a lot of us when it comes to looking at issues we're not usually accustomed to dealing with. This is probably one of them.

**Mr Carr:** What about privatization? How did that come up?

**Mrs Bennett:** The only reason privatization is rejected at this time is that our municipality really isn't positioned as far as policy around privatization. So as a general principle, privatization hasn't been looked at, but at every budget discussion, whether it's around transit or any other services, certainly the question of privatization is there and there are a number of members who are quite anxious to move towards privatization. This year is a different year because we're not dealing with what we're going to be dealing with next year, but I have no doubt next year is going to be very difficult.

**Mr Carr:** One of the things that municipal politicians have said against all three political parties is: "Don't give us so many regulations and tell us what to do. You've given us all the downloading." That isn't to be partisan, because they said it about us, they said it about the NDP, they said it about the Liberals. They're saying, "You have to stop mandating all these programs and then telling us what to do." In this area, though, you seem to be saying you want the province to tell you what to do with regard to not privatizing as one of the issues. How do you justify to the other municipal politicians who are out there saying: "Don't tell us what to do. Don't have Big Brother province telling us what to do"?

**Mrs Bennett:** I'm just saying that for those parts of the legislation I'm referring to, I would just as soon you didn't change them and left them as they were and let us deal with our collective agreements and our own firefighters. What I'm concerned about is there seems to be such a hurry to do things, and the fact that the previous government couldn't come to some common ground I think identifies a very common problem — I deal with it in some of my committee work — and that is, it takes a long time sometimes to sit at a table with diverse interests and come to the common ground, but I think it's a worthwhile exercise when you do that because the end result is more effective than when you mandate and legislate people to do things.

**Mr Ramsay:** Ms Bennett, thank you very much for coming. I'd like to continue the discussion that Mr Carr initiated with you, because it begs an interesting point. Where Mr Carr left off is, how much should a province mandate? I think what municipalities have been saying is, "Get out of our lives on the little stuff," but when it comes to public safety and security, I think there needs to be a provincial interest for sure. I'm not ashamed to say, "Yes, I want to give freedom to municipalities but I think there are certain areas where there needs to be a very strong provincial presence and interest." This is one of them.

I wish Mrs Marland was here, because she said, "What municipality would ever consider lowering the standards of their fire service?" You've already told us that North Bay — and I'm sure it's unintentional; it's because of the pressures they're under — are looking for where to cut. They don't want to jeopardize anybody's life. I don't

think anybody does. But they're under this pressure. So they're under the impression, "Maybe we can cut some corners at the fire department." That's what we're saying with this bill, that this gives them the ability to do that even more than you had before. Some of us think that's wrong and I guess others think, well, let you guys decide. That's a problem. Again, what do you think of that, our just saying, "Here, go ahead and do what you want with the fire department"?

**Mrs Bennett:** Obviously I agree with you. I feel the role of government is to protect and to defend some of the values we have. My fear is that when we hand it down to the municipalities who will want to privatize it, then who have we handed off those things to? Then they become out of the control of anybody who is accountable or elected by the public. That's a great concern I have.

As well, as we look at next year and the possibility — well, we have municipal elections, and then we're looking at this blue plan for municipalities. That raises a very serious question in my mind. If we're going to have an extension of the Conservative Party pushing the agenda in the municipalities, where's the distinction now going to lie? It's not been any secret that that's what the plan is.

1510

**Mr Bisson:** On the question of, should the government mandate minimum levels of service, I say definitely yes. Imagine if government didn't mandate services, for example, in the field of health care. The federal government up until recently mandated through the Canada Health Act what levels of services the provinces had to deliver when it came to health care and then enforced that not only by legislation but by way of penalizing your transfers if you didn't do what you were supposed to do.

Up until recently our system of health care really hasn't been in jeopardy. It's only when the federal government started removing some of those minimum standards that were set and started removing the conditions that tied to the transfers that provinces had the ability to start doing some of the stuff they're doing across this country. So I say, yes, federal and provincial governments have a responsibility to make sure that in the case of the federal government they mandate provincial governments to maintain minimum standards across the country, where applicable, and so do provincial governments have with the municipals.

I want to come back to the blue plan that you talk about, because that's something that hasn't been said. We have for the first time in the history of this province an all-out move on the part of the Conservatives to say, "We want to put in place as many Tories as we can on municipal councils." I look at some of the tools that we're giving them in this toolkit, Bill 84 and a whole bunch of other stuff. I'm really fearful about what that means, because I can tell you what it means on the provincial level. Once you get down to the municipal level and they have the ability to enact this legislation, I think we're going to be all the worse for it. I want to thank you for having presented and making that point. I think it needed to be said.

As far as questions, I think your presentation answered my question, which was, will a municipality take advan-

tage of this legislation to reduce services? I'll let you answer that question again.

**Mrs Bennett:** I can't predict in next year's discussions because I don't know who will be at the table, but I think there's a really serious possibility that at least part-time staffing is very appealing, so yes. When I hear the previous speaker talking about what this is all about, it's all about saving money. The bottom line is the buck, and we're going to be forced into those same considerations as we take on — I mean, it's supposed to be a wash, but with no information, I'm not convinced it's a wash at all anywhere.

**The Vice-Chair:** Ms Bennett, on behalf of the committee, thank you very much.

#### GORDON HENDERSON

**The Vice-Chair:** The next presenter is Mr Gordon Henderson, please. Good afternoon, sir. You can begin any time.

**Mr Gordon Henderson:** Thank you very much. First of all, I'd just like to thank the committee for allowing me this opportunity to make this presentation. It will be brief. My name is Gordon Henderson. I'm broker-owner of Sutton Group real estate in Sault Ste Marie. I'll admit my knowledge of Bill 84 may be somewhat limited; however, there are a couple of issues I would like to address.

A lot of people have alluded today to part IX. It's the possible allowance of part-time firefighters under the provisions of this act.

You probably all remember back to when you were in elementary school and every once in a while they would run a fire drill. I always believed when I was a child that the reason for doing this was so that they could see how long a couple of hundred kids could stay outside in minus-30-degree weather, without their coats on, of course: some sort of retribution for the teachers. Of course we all know what it was for. It was so that there could be some form of structure, some organization, and that in the unfortunate event of a fire, we as children would know which exit to use, how not to panic, and to familiarize ourselves with the layout of the school.

Let's expand that premise to Sault Ste Marie. Our full-time firefighters are based out of four halls. Every firefighter knows the layout of every street in his area, the location of all schools in his area and the layout of every school in his area. Besides schools, there are apartment buildings, colleges and universities, senior citizens' complexes, arenas, theatres, and the list goes on. They know the layouts of these buildings because that is their job. They need to know and react and respond with speed and organization.

Our largest industry in the Sault, which is Algoma Steel, has its own firefighters. Why? Because fires cost. They not only cost in the horrible event of death, they also cost in business.

A while back in Sault Ste Marie, the city conducted a survey. I believe someone alluded to that earlier. It broke down different services that the city provides and it asked respondents to rate in order of priority the services they felt were most important, less important and of little



importance. I believe there were about 21 categories of services in this and firefighting and fire suppression was in the top three of priority. It is very important to the citizens of Sault Ste Marie. The people want their present fire department safeguarded against any downsizing, against any detrimental change. Part-time firefighters would be detrimental.

My spouse has been a health care worker for over 16 years now. She has seen the effects of having part-time health care workers. How someone can possibly keep up with new technology, patient history and new and ever-changing diseases by working part-time is beyond her comprehension. I believe the same can be said for firefighting.

What will be the reaction — or maybe a better word would be "choice" — of a part-time firefighter if he has a call at 4 am; it's the middle of January, it's freezing cold, the equipment is freezing, the firefighter is freezing, but by 7 o'clock the fire is under control. There's still a lot of work to do. There's cleanup, they've still got to put the fire out, and the choice this part-time firefighter has to make is what job he is going to be doing at 7:15. You see, this firefighter has another job at Algoma Steel and that starts in 15 minutes. I'm sure his foreman at Algoma expects him to be there. I'm positive the citizens of Sault Ste Marie expect him to finish his first job — that's the fire.

I would now like to address the issue of how it affects my industry and small business in general. I read an article about three or four years ago that estimated that by the year 2000, nearly 40% of small businesses or employees of small businesses would be home-office-based. I think we already see it in the government quite often, where people come in on a contract basis and actually work out of their homes. Technology is wonderful. A slow response time to these homes could put small business out of business. About 70% of my 27 employees are home-based.

Over the past few years, both federal and provincial governments have come up with various programs and incentives to make home ownership more affordable: the use of RRSPs, the registered home ownership savings plan, the rebate of land transfer tax and the 5% down payment options — all great ways to make home ownership more affordable. But what will be the reaction to part-time firefighters by the insurance industry?

In the past, the insurance industry has not been known for its compassion when it comes to premiums. A little research into rates told me that for a \$100,000 home in Sudbury with semi-fire-protection, that being a volunteer fire department with firehalls, the annual premium would be increased by about \$200. For us in the north, a \$100,000 home is an average home. Think about what it would be in southern Ontario, where your average home price might be two and a half or three times that. It's not exactly an incentive for affordable home ownership. If part-time firefighters were the norm, what would the reaction of the insurance industry be?

Mr Humber, in his earlier presentation, alluded to the services that the Sudbury fire department provided to him when he purchased an apartment building. A free inspection was provided to ensure the safety of his tenants.

My industry makes requests daily on behalf of homeowners and purchasers alike. The issue of retrofit comes up daily. It's a benefit to all citizens to have a full-time, knowledgeable firefighter conduct this inspection.

In closing, I would like to just reiterate that the public demands a full-time professional firefighting service. In our city, we pay for it. It's part of the deal. We expect it. Firefighting is not something that gets cut back and we're merely inconvenienced by longer lines. Firefighting is a matter of life and death, and protection and safety of people and things we hold dear.

I, as a husband, father and small business owner, demand and expect the best in fire protection. A full-time firefighting service with full-time firefighters is the best in fire protection.

I would like to thank the committee once again for its time. Should you have any questions, I'd be happy to answer them.

**The Vice-Chair:** Seeing no Liberal member, we'll move to Mr Bisson for two and a half minutes.

**Mr Bisson:** You raised a point that I'd forgotten all about, which is that a lot of industrial employers across northern Ontario, the ones that I'm familiar with, have their own fire brigades, for the reasons that you point out. I think it's good that you brought this to the committee because I think it demonstrates two things.

First of all, they do that because of the importance of being able to know the lay of the land, what dangers exist, proper training for the type of materials and possible dangers that exist within the workplace, but probably just as important is the whole issue of response time. I think it's something that needed to be said and I want to thank you for bringing that in.

The other thing is that you have a specific knowledge about what it means economically to homeowners. I'm wondering if you can expand on that a little bit, because you talked about the difference you're going to pay for insurance on a home if you have full-time fire services or you don't.

1520

**Mr Henderson:** Although I'm obviously not in the insurance industry, I was able to obtain some information which broke down different levels of fire coverage or fire protection for homeowners. I guess it would depend on where the shoe would fall as to how the insurance industry would react to it and if it became the norm, like I mentioned, what would be the premiums. In the past they haven't been overly sympathetic to people, whether it's car insurance or whatever it happens to be. I just can't imagine what their position might be in that part.

**Mr Bisson:** The last question is, a previous presenter — and I forget the gentleman's name; I think it was the president of the Tory riding association — had commented that the people who were speaking up in opposition to this bill were people of special interests. What special interest do you represent, sir?

**Mr Henderson:** I suppose I am a small business owner. I am also a husband and father. When I found out what some of the possible ramifications of this bill could be, it really stunned me. I couldn't figure out why. In Sault Ste Marie, maybe we had a death a couple of years ago, but I think before that it had been 10 years since

there had been a death due to a fire. It just speaks volumes for our first-rate fire department in the Sault. I also was aware of the survey that was conducted by the city —

**The Vice-Chair:** I'm sorry. We do have to move on to Mr Carr.

**Mr Carr:** Thank you very much for coming and doing your presentation. As you probably know, section 9 is contentious; the rest of the bill I think there's broad support from the associations. Even the opposition likes some parts of it. Right now there are not standards across the province. One of the things it tries to do is give more power to the fire marshal to ensure standards are met.

The other parts of the bill, outside of the labour parts — are you in agreement with that part of it or is there anything you can say you either don't like or like about the other sections, which I think do have fairly broad support? Do you agree with the other parts of it?

**Mr Bisson:** That's the part-time issue.

**Mr Henderson:** I understand "part-time" refers to the possibility of part-time firefighters?

**Mr Carr:** The labour —

**Mr Henderson:** Contracting out and the labour issues, that way?

**Mr Carr:** Yes, the other part of it.

**Mr Henderson:** As I mentioned, my knowledge of the bill is somewhat limited. A major concern to me was this particular part of it and I have not looked into the other parts further.

**The Vice-Chair:** Mr Henderson, on behalf of the committee, thank you for your presentation.

#### CANADIAN AUTO WORKERS, LOCAL 103

**The Vice-Chair:** The next presenter is Mr Brian Stevens, please. Good afternoon, sir.

**Mr Brian Stevens:** I've got enough water up here to put out a fire.

**The Vice-Chair:** You'll have 15 minutes. You can begin at any time, once you unload all that water.

**Mr Stevens:** I should probably come clean and tell you I'm a special interest group because I have a job and I'm a union member, and that's a special interest group in Ontario.

Good afternoon. My name is Brian Stevens. I'm the president of the Canadian Auto Workers, Local 103, the Ontario Northland in North Bay. We represent about 250 men and women who work in various locations across northern Ontario: North Bay, Englehart, Kirkland Lake, Timmins, Hearst, Moosonee and parts in between.

We work in the rail yards, mechanical shops and hotel. Our jobs take us on the road, involve work at train derailments and expose us to hazardous substances and at times dangerous situations. With an average response time in the area of four to six minutes, we rely on the speed, experience and teamwork of professional firefighters responding to our call for help, not only as homeowners but also as workers in the province of Ontario.

The Fire Protection and Prevention Act, 1996, introduced as Bill 84, replaces nine existing acts with a single omnibus act covering all aspects of fire protection and prevention. Clearly there are good aspects of this

approach; however, much of it is lacking in structures and systems to actually improve overall public safety.

We view part IX of the proposed bill as a continuation of the attack this government has waged on workers in the province since it first took office. What this government is proposing to do to the professional firefighters is take the worst — or, as Harris sees it, the best — of Bill 7 and Bill 49 and repackage it in Bill 84.

In Bill 7 you took away the anti-scab legislation; in Bill 84 you've taken away the right to strike. Professional firefighters have never gone on strike in Ontario. Under the existing system, firefighters have voluntarily set aside their right to strike in exchange for a system which refers contractual disputes to compulsory arbitration.

Under the proposed Bill 84, if the parties fail to reach an agreement through collective bargaining, the dispute would be referred to a conciliator and then to binding arbitration if necessary. In the absence of the right to exercise economic sanctions, what motivation is there for the employer to bargain in good faith, especially in the absence of any enforcement mechanism to ensure that all obligations under the act are fulfilled? Bill 84 does not confer any authority on the labour relations board to hear and determine complaints concerning violations of the act.

Firefighters must retain the right to strike. Their track record demonstrates a solid commitment to their membership, to their employer and to the public of their desire to bargain, in good faith, a collective agreement to its conclusion.

Bill 84 provides, in a similar manner to the current act, the arrangement of firefighters' hours of work in a shift system or platoon system. It goes beyond and contains a significant change with respect to how hours of work are to be determined and assigned. The bill requires that no firefighter who is assigned to firefighting duties be required to work or be on duty for more than 48 hours in an average workweek. That's up from the current average workweek of 42 hours. This change alone will allow employers to reduce staffing levels by up to 20%.

If that isn't enough, Bill 84 leaves scheduling largely up to the employer. If an employer chooses not to adopt the platoon system of scheduling, subsection 43(6) would permit it to adopt any other system of scheduling it wants. The only protection for firefighters is a provision requiring a minimum rest period of 24 hours per week. Subsection 52(1) of this bill specifically excludes negotiations over hours of work and is unclear how it would handle existing collective agreements which contain such provisions.

It reads in part, as paraphrased: "The parties may bargain in respect of the remuneration," which includes pension benefits, "and working conditions of members of the bargaining unit, but shall not bargain in respect of working conditions described in section 43, as it refers to hours of work."

Professional firefighters should not be treated as a different class of workers in the province. I ask the government members to defend this discriminatory provision in this bill. Even the Ontario Association of Fire Chiefs is questioning the origins of this provision.



Just on an aside, I turned on the parliamentary channel last night and I noticed that the committee of the whole House engaged in a series of negotiations around hours of work, so if they can do it, certainly that should be left to the professional firefighters.

**Pensions with limits:** While Bill 84 does permit bargaining with respect to pension benefits, as I said, it can only do so within the limits set by the Minister of Municipal Affairs and Housing, if only we could all have his gold-plated pension plan. The typical employment legislative framework is to set a fair and equitable platform with an enforcement component for the benefit and protection of all workers. What Bill 84 proposes to do is not set the platform, nor does it set the ceiling; rather what it actually does is race itself directly to the bottom.

It is unacceptable that a government would limit the scope of bargaining, particularly on an issue so important and so vital to the long-range life planning of professional firefighters.

1530

Bill 84 would require the bargaining agents, as said earlier, to go through a system of conciliation where a government-appointed conciliation officer is required to mediate collective bargaining disputes before arbitration. However, unlike trade unions and employers under the Labour Relations Act, firefighters and municipalities — that's if they remain the employers under this government — will be required to each pay for one half of the cost of the services of conciliation officers. The minister has the authority to determine those costs and that decision is final and binding. That's down and dirty downloading by this government.

The right of a dismissed firefighter to have his or her case reviewed by a municipal council, which dates back half a century, I'm told, would be removed in Bill 84. For firefighters covered by a collective agreement and entitled to arbitration, Bill 84 denies them the right to have a hearing by council.

For probationary employees, unless the collective agreement provided otherwise, they would not be entitled to any form of a hearing or review in their first 12 months of employment. For non-probationary employees not covered by an arbitration provision in a collective agreement, Bill 84 allows a review by any person not employed by the fire department in place of a hearing before municipal council.

With the new definition of employer to include "a municipality, person or organization that employs firefighters," this clearly paves the way to push aside municipal councils and for the privatization of firefighter services in the province of Ontario.

Bill 84 also expands the employer's ability to call in firefighters in emergencies. Currently the fire chief can call upon off-duty firefighters to respond to an emergency only when there is a fire, flood or other disaster which requires the services of every full-time firefighter. The new bill would allow employers to call in off-duty firefighters to respond to any major emergency, even if it was not large enough to require the services of all firefighters. This will allow the employer to set lower full-time staffing levels, especially at non-peak times, and

supplement its force with a pool of part-time, on-call firefighters in case of, as a yet defined, emergency.

This provision in itself jeopardizes the fundamental principles in emergency response. Firefighters will not be where they are best positioned to respond to a call. In understaffed firehalls, precious time will be wasted in securing appropriate response teams.

While the system of interest arbitration of collective agreements remains, Bill 84 provides that such disputes may be referred to a board of arbitration or, where the parties agree, to a single arbitrator. Beyond that, subsection 54(7) of the bill mandates the ability to pay as one of the criteria to be considered, together with other criteria such as the economic situation in the municipality and the province.

I'll pull out subsection 54(7) which says: "In making a decision, the arbitrator or the arbitration board shall take into consideration all factors he, she or it considers relevant, including the following criteria"—I may be boring some of the government members but I think it's important for the public to hear this.

"1. The employer's ability to pay in light of its fiscal situation.

"2. The extent to which services may have to be reduced, in light of the decision, if current funding and taxation levels are not increased.

"3. The economic situation in Ontario and in the municipality.

"4. A comparison, as between the firefighters and other comparable employees in the public and private sectors, or the terms and conditions of employment and the nature of the work performed.

"5. The employer's ability to attract and retain qualified firefighters."

This provision has been legislated as part of the government's notorious omnibus Bill 26 and is now seeping its way into the firefighters legislation.

Our conclusions: We submit that if Bill 84 is enacted in its present form, it will result in an erosion of the rights of the firefighters' associations and a significant shift in power employers would have over their workers.

Firefighters would lose their right to strike, for a questionable and expensive arbitration process. Their hours of work would expand, yet they would have no ability to negotiate them. Conversely, they have the ability to negotiate pension benefits but only to a limit as prescribed by the minister.

A broader definition of firefighters coupled with the revised call-in provisions, will allow employers to deliberately understaff firehalls with full-time firefighters and supplement all emergency calls with a pool of part-time firefighters.

Finally, the change in the definition of employer would allow municipalities to engage the services of private contractors. The horrors of the US experience in privatization of fire services should stand as a stark reminder to this government that all is not well in the land of the free.

On behalf our full membership, do not undermine our fire services. Abandon this course of action today. Speed, experience and teamwork make the difference. There are no second chances in an emergency. Bill 84 will take

away the only chance many Ontarians have in their life-and-death situations. Thank you very much.

**The Vice-Chair:** Thank you. A minute and a half per caucus.

**Mr Bisson:** I guess the simple question I have is that when we look at section 9 of the bill, the government is saying, on the one hand, that they want to give firefighters the rights that other workers have in the private sector found under the OLRA. Yet when you read section 9, many of the rights that every other worker enjoys — maybe don't enjoy any more because the OLRA's been amended; let me rephrase that — are not in there, such as the things that you talked about: negotiating pension rights, hours of work, having to pay for 50% of the cost of conciliation. Why are they setting up firefighters differently when it comes to labour relations, in your view?

**Mr Stevens:** It's absolutely clear. It's to reduce services, clear the way for privatization, cutting services, getting out of providing these services and clearing the path for their friends on Wall Street and Bay Street.

**Mr Carr:** Thank you for your presentation. I just wanted to see if you could help us with some clarification. As you know, subsection 43(10) says, "the fire chief may call in off-duty firefighters if, as a result of a major emergency, the fire department needs the services of more firefighters than are on duty." One of the problems with doing this — and I can see both sides of it — the people who write the bill say you need to have, in major emergencies, the ability to call in more people than are there because of the unanticipated. I can see what you said: The other side of it is that they will understaff and then just call everybody in for emergencies.

In drafting the legislation, it's difficult to get that balance, because it could be abused either way. Is there any way you could word it, change "major emergency," so that you clarify that, so we wouldn't have these two problems?

**Mr Stevens:** I would think perhaps you should have asked that question of Grant Love, one of the presenters here previously, because he did indicate to the government that in fact North Bay has negotiated the call-in contract language, so I would suggest that if it's best left to the parties, that they would negotiate that. If you want to get out of their lives, then perhaps that's one of the things you should be —

**Mr Carr:** The other is the right-to-strike provision, as you know. It's difficult in an essential service, particularly when we're talking about people's lives, having the ability to strike. Of course, in other professions — in the auto industry if one goes on strike, if General Motors goes on strike, you can buy a Ford, and so on. With an essential service, that isn't the case. What do you say to those who say that we shouldn't have a strike in an essential service such as firefighting?

**Mr Stevens:** I think the firefighters have been very professional in their approach to collective bargaining. If there was an abuse of it, then there might be some public outcry but wherever I go across this province, I do not hear people telling me, "Brian, we have to take away the right to strike for firefighters." No one's telling me that, and my guess is that I don't hear municipalities telling the government that either.

**The Vice-Chair:** Mr Carr, I'm sorry but we do have to move on to Mr Ramsay.

**Mr Ramsay:** I would almost like to follow up maybe what you were just going to ask: If it hasn't really been a problem, why does the government need to have this in this act? As you've said, the firefighters themselves, either through collective agreements or through their firefighter professional organizations, have said they would not do this, take any work action that would jeopardize anybody, yet the government sees fit that somehow they think the firefighters might be tempted now, because of the poison pill of this part IX. I don't know why they're doing it. What do you think?

**Mr Stevens:** I would suggest that perhaps it would be because they are clearing the way to privatize the fire services of the province of Ontario and want to hand over to their friends a docile, controllable workforce.

**Mr Ramsay:** That's a good point. In other words then a municipality tendering out the job of fire prevention, suppression, could guarantee to the future potential employer, "By the way, you'll get a workforce that will not be able to strike." I guess this is an added incentive for those people.

It's interesting also to note that while they say this is an essential service and thou shalt not strike, they have not mandated in this bill that all municipalities have to have a fire suppression service. They have fire safety and education — all municipalities have to have some sort of program — but not fire suppression, so it's kind of an interesting conundrum there, that while it's not really deemed essential and you don't have to provide it, if you do provide it, they can't strike. It's kind of interesting.

**The Vice-Chair:** Mr Stevens, on behalf of the committee, thank you very much.

1540

## JOSEPH BOOKS

**The Vice-Chair:** The next presenter is Mr Joe Books, please.

While we're waiting for Mr Books to come up, the other day I requested some information from the ministry with respect to volunteer firefighters and the different types of compensation that's made available to them, and their roles. That information has been presented to me now and will be distributed by the clerk for the committee members. Good afternoon, sir.

**Mr Joseph Books:** Good afternoon.

**The Vice-Chair:** You'll have 15 minutes. You can begin any time.

**Mr Books:** Fifteen minutes? I don't think I'll be that long. I hope I won't be that long.

My name is Joseph Books. I'm a retired captain from the Sudbury fire department where I was a captain for 23½ years. I'm presently fire chief of the town of Walden, which has an 80-man volunteer firefighting force.

I'd like to thank you for the opportunity to comment on the proposed legislation in the Fire Protection and Prevention Act, Bill 84.

The Ontario Association of Fire Chiefs has consistently supported changes to the fire service legislation in the



interest of public safety. Fire prevention programs in schools and workplaces will raise the profile of fire risks and the dangers of fire. These are initiatives that are supported by all members of the fire service, not just the fire chiefs but the firefighters as well.

The legislation will put prevention first and, unfortunately, it looks like it's going to put fire suppression last. There should be no distinction between prevention and suppression. They should have basically equal priorities. They're both very important.

You can educate the public on the dos and don'ts related to fire safety at home, in the schools, in the workplace, but accidents do happen. People don't listen. Systems break down. Shortcuts are taken on the job. People fall asleep while cooking at odd hours. Yes, there are a lot of fire injuries that could be prevented through greater use of fire prevention and public education programs. No one is denying this. Prevention is important. Fire suppression is also very important.

The fire department used to be one big, happy family unit where gentlemen and firefighters would get to know each other and trust each other and work well together. Now they want to bring in part-time firefighters. A part-time nurse, a part-time school teacher, part-time ambulance attendants — these were career choices at the time and these people went full-time to become a nurse or a school teacher or an ambulance attendant. Where they couldn't get a full-time job, they took a part-time job, but they had all the proper training. There was schooling for this position, where there is no full-time fire school to become a firefighter. It's a lot of on-the-job training.

Part-time just doesn't cut it. You can't have people coming in 10 hours a week or 20 hours a week and expecting to work beside people who are full-time, who trust each other, know each other, know their limitations, who can go into a burning building and be on a stairwell where one person is running in, doing a rescue and know that that person is going to be there to help you out if you're in trouble. This is from knowledge and getting to know people, where part-time you just don't get to know anybody.

I'm with a volunteer fire department and you might say, "They don't get the same training either." We don't get the same training as a full-time fire department does but we still get to know each other. We're a group. It's a small community; it's not a big community. If you bring in part-timers or volunteers in the city of Sudbury, for example, they would be coming in at busy times of day. You never know who you're going to get. You could have a call out on volunteers and you don't know if you're going to get a full turnout, one man, two men, and so on. The full-time have to be there.

Eight years ago there was a fire death in part of this city and one of the recommendations after that fire death was that if the fire department was manned full-time, this death might not have happened. Now we're going to pull all that back again. We're going backwards.

Unfortunately, the people who suffer are the public. Firefighters are here to serve the public the best they can. That's their duty and that's their gut feeling, that's what they want to do. They are there to help.

They want to introduce more management teams. A fire chief and a deputy fire chief can certainly manage a fire department. They always have in the past. Have we become so involved in paperwork and meetings all the time that we have lost touch with what's happening in our own backyard? It just seems to me that they're always away at meetings, nothing's being accomplished, they lose touch with their manpower and they're just losing their focus of what the job is all about. A fire chief should be standing up for his firefighters and demanding that you don't cut the working man. That's what we seem to be doing: We're going into a part-time society. What are our children going to have any more? Oh, good, maybe we can grow up to be a part-time firefighter.

**Mr Bisson:** Have two part-time jobs.

**Mr Jordan:** That's what I was thinking.

**Mr Books:** Well, that's what we're going to need, two or three part-time jobs.

Isn't it strange when municipalities need guidelines to help them make informed choices — they call it informed choices — on fire protection? Wasn't that always the duty of a fire chief? Wasn't it the duty of the head of the fire department? If now we're going to leave it up to municipalities, we might as well leave it up to the police chief to run the fire department as is done in other municipalities. If you can have part-time firefighters, it's possible you can also have part-time fire chiefs or part-time deputy chiefs. What are the criteria?

I'm basically saying in the firefighting, and I'm speaking from the heart and a lot of experience in fighting fires, the camaraderie and being together is so important that you just can't tear it apart. There have to be certain amendments made where proper training — this new government certification or fire marshal's certification could take anyone up to 10 or 15 years to become certified as a firefighter, and yet maybe they have never been into a fire. They've just gone through all the paperwork. There's nothing that beats experience. It's a learning process, and it's an on-the-job learning process. You just can't go out and learn in a school. It's just not there.

Every resident in this municipality has a right to fire protection. Every firefighter in this municipality has a right to be concerned for his safety and for the safety of the residents. And we are concerned. We're concerned about ever-increasing workloads. We're doing medical aid calls now, defibrillator calls, advanced first aid, and you're going to put this on to where response times are so critical in saving a person's life that you can't delay them. It's taken a long time to get where we're at and now we want to dismantle the whole thing again.

**1550**

Part-time: Maybe there is merit to some of it, if you can handle the job. Ex-firefighters have gone through all the training and chosen another profession. They could possibly go in and handle it if they've worked in that community and are known by the men, as long as you know people. But again I'd like to stress we're becoming a part-time society and it has to end someplace.

Part IX of the legislation: Especially the part-time and the right of municipalities to override a lot of decisions of fire chiefs are basically the keys to this. It shouldn't be

left up to municipal politicians, who know nothing about firefighting or know nothing about firefighters, to tell them how to run their business. It just doesn't work that way.

It seems that every decision being made lately is being made by people at all levels of government, but key people are being left out. The bottom-line worker is being left out. A lot of people have a lot of good ideas, not just the higher-ups; not just the bosses have good ideas. They don't have monopolies on all the solutions. I feel that unions and management or associations and management have to bury the hatchet, try having a little bit more meaningful dialogue, and cut the confrontations. Everything is a confrontation today.

I feel the proposed legislation will provide an effective fire prevention service, but I feel effective fire protection or suppression is at risk.

I thank you very much for your time.

**Mrs Marland:** I was interested, based on your experience, in your comments about all the different things that firefighters have to do now. They've had to become experts in multimaterial handling and ice/water rescues, extrications in highway traffic accidents. Do you think actually that municipalities have been asking their fire departments to be responsible for too much?

**Mr Books:** No. Firefighters are a strange breed. We're like sponges; we can take on many different tasks. We're jacks-of-all-trades. Sitting around being bored is terrible, but going out and being in the action — the more we can help the public, even if we have to go out and help direct traffic or help an ambulance attendant with a stretcher or something, that's all part of our job. This is part of our public service, and that's what we're there for, public service.

**Mrs Marland:** So it's the emergency services that you're saying are okay?

**Mr Books:** Yes.

**Mr Ramsay:** Mr Books, thank you very much for your presentation. It's from the heart and from a lot of experience, and that's helpful for me. It really occurred to me when you were speaking what this is all about, and I guess it's all about money unfortunately. It's sort of, "Show me the money," Ernie Eves to all the different ministers, that he's got to claw back money and some of it's going to come from municipalities and so the municipalities are under pressure to look at what are all their different budget departments.

Firefighting is an expensive service. There's no doubt about it. But to me it's like insurance. I suppose over the years we've all paid enough insurance to buy a car or do whatever in our lives, but we're glad to have it and we're glad to pay for it. Especially house insurance: We hope we never have to claim on it but we know we have to have it.

It's the same with fire services. I think there are some things you just can't cut, and this is one of them. If we want to have a first-rate fire service and ask of you to keep doing more and more as the world gets more complicated, then I think we have to come up with the money and pay for it. That's why I think this bill is wrong, because it's going to start to give the municipality the ability to cut, and that means people will suffer.

**Mr Bisson:** I have a comment more than a question. You made a comment earlier that unfortunately in our society everything is done by confrontation. I don't agree with that view because I've seen many, many examples — I know personally examples that I was involved in negotiating collective agreements as a negotiator with the Steelworkers and also as a government member working with various bargaining units when they were going through difficult times through the social contract. In many cases people are able to sit down and try to come to some sort of arrangement that's beneficial to both sides. Unfortunately, in our society all you hear about are those confrontations because that's newsworthy, that's a sound clip that you can use. I wanted to just mention that because I think there are lots of examples where people actually do things by cooperation.

**Mr Books:** I didn't mean totally, everything all the time is confrontation, but it just seems that things a lot of the time are confrontation and that dialogue is missing.

**Mr Bisson:** Yes, it is. Sometimes there's no news in trying to report good news, and I think that's a problem that the government is suffering these days. We can't find too much good news.

**The Vice-Chair:** Mr Books, on behalf of the committee, thank you very much.

MIKE LAPIERRE

**The Vice-Chair:** Our next presenter is Mr Mike Lapierre. Good afternoon, sir.

**Mr Mike Lapierre:** Before I start, I would like to draw your attention to the TV. I have somewhat of an emergency rescue on myself that was performed in Timmins three years ago and I just want to show you what it was all about.

As you can see, there's a van that's partially submerged in the river. I was the driver of that van. Fortunately I was able to survive, thank God. There were a lot of volunteers who were there at the time, but nobody was able to go into the van and get me except for the full-time firefighters, one of whom is Danny Keizer, right there, and other gentleman by the name of Gerry Sabourin. I'm sorry there's no audio.

**Mrs Marland:** You went through the ice? You went off the bridge?

**Mr Lapierre:** What happened was, I had a mishap in front of a Tim Horton's and I continued going into oncoming traffic. The river follows the highway in Timmins, if anybody's ever been there before, and I veered towards the guardrails and followed the guardrails until they ran out. I was unconscious the entire time until I hit the water. Once the guardrails ran out, the van flipped in the air a few times, broke a tree and landed right side up in the water facing the other way. I woke up while I was in the van, but the water was going into the van and there was no way of getting out. It was impossible to get out. The current's too strong and I drowned within moments. I'll just go with my speech and I'll explain the story.

I'd like to say good afternoon. I know it's been a long day for all of you and it is kind of warm in here. I bet you drank a lot of water today.



I'm here today as a member of the general public over concerns on Bill 84. I've come forward today in protest of this bill because in August 1994, as you can see, I was a victim of a vehicle accident in Timmins. My rescue was just one of many that are performed each year by these brave and unselfish public servants of the fire departments throughout Ontario.

I was involved in a single vehicle accident where my van had entered the frigid and fast-flowing waters of the Mattagami River. Although there was a handful of people on scene, like I mentioned before, no one was able to go into the river to try to save me. Nobody would have or they would have been victims themselves. The van was filled with water. The windows weren't busted or anything. I guess I had the windows rolled down and she filled up pretty fast and, like I said, the current is very strong. After I had drowned, my lifeless body was pushed to the back of the van, pinned at the bottom of the doors behind the spare wheel.

My only hope for survival was in the hands of the Timmins full-time firefighters who were dispatched immediately following the accident. The brave men involved in my rescue were informed that the call was an auto extrication, so they were surprised when they showed up on scene. They had no idea that it was going to become a water rescue.

When they arrived on scene, Danny Keizer and Gerry Sabourin acted upon instinct to dress up in their wetsuits to perform the difficult act of extracting my lifeless body from the wreckage. Unlike the individuals on scene, these two men, without hesitation, entered the vehicle to hopefully save my life. Without fear for their own lives, they managed to grab me from the clutches of death and extricate me from the vehicle.

1600

The hardest part of my rescue was complete. However, with no signs of life in my body, the rescue seemed pointless at that time. My body had gone without oxygen for 12 to 15 minutes and it took doctors 40 to 45 minutes to revive me. Rendered in a coma, everyone knew that my chances to bounce back were pretty grim. Permanent brain damage was the main concern, due to a lack of oxygen for such a prolonged period of time. Two and a half days later, I regained consciousness and seemed to have sustained minimal brain damage to where my short-term memory was affected. That was then and this is now.

We, as a society, understand that cuts must be made in all areas of government and the services provided by all levels of elected officials. However, no one has the right to put a price on public safety and the general welfare of Ontarians.

Let me stress what factors are important to any emergency situation, and that included my own. Be it fire or non-fire-related emergencies, speed, teamwork and experience make the difference in any emergency situation. You may ask why these factors are so important. This is simple to explain. Most emergencies don't give you a second chance in saving lives. Either they act according to their specialized training or they react by instinct because firefighting is their chosen profession. It's a career that brings great satisfaction to those who

serve it. All studies dealing with rescues and fires identify speed, teamwork and experience as the most important factors related to these circumstances.

On average, it takes firefighters between four to six minutes to arrive on the scene of an emergency. Bill 84 may jeopardize these response times because it makes it possible for municipalities to understaff fire stations, call in firefighters from the home or other jobs only after an emergency arises. These alternatives delay response times, thus creating unneeded risks and potential life-saving problems that would not occur with a full-time firefighting team on hand.

As for teamwork and experience, firefighters who work together for years create a bond between each other that would not be possible with Bill 84. I see that with the crew in Timmins. They're very well-knit. These men and women have to rely on each other in dangerous situations every time they get called out. These circumstances allow these individuals to comprehend how their coworkers would react in any given situation. This creates the teamwork needed to ensure the safety of the emergency crews and the victims involved in these situations.

Bill 84 will eliminate the opportunity for this environment to exist, thus creating higher risks for failed rescues and injuries to those who participate in these rescues. The victims involved won't be alone any more because firefighters now risk becoming victims themselves.

The chances of rescuing someone in trouble are reduced and even eliminated due to a lack of experience, poor teamwork and an increase in response times. These factors that are ever so important in rescues and firefighting endanger the public and its servants if they are compromised. All parties involved in my rescue believe to this day, including myself, that a fast response time, the teamwork and the invaluable experience those two firefighters have is what saved me from death or permanent brain damage. Without them, I wouldn't be here today to give testimony to the importance of keeping Ontario's firefighters where they are needed and utilized to their best capabilities, and that is saving lives, which Bill 84 will jeopardize if passed in the Legislature.

If any of you ever have to go through this trauma that you've seen on TV and that I experienced, whose hands would you prefer to have your lives in? Part-time firefighters or full-time, trained firefighters? I know who I would choose. Thank you.

**Mr Ramsay:** Mike, thank you very much for coming in. It's very illustrative for all of us that people such as yourself who have had a dramatic rescue come forward and share that experience with us. It really increases all of our appreciation of the value of fire services in this province. I think a lot of us, with our very limited experience, look at the fire department as a group of people who go and put out fires. Through all the hearings that I've been at now for this week, I've really had a greater understanding of the scope of what a fire department does and the skills and the knowledge that a firefighter requires, and boy, you're living proof that it's work and it's important to have that professional staff on hand. Thank you for sharing that with us.

**Mr Bisson:** Mike, I remember that day well. Actually, Mike delivered parcels to my office on a very regular

basis and was late for a delivery that particular day and we wondered why. I think it needs to be stressed that most of us in the community, when this happened, didn't think that you were going to survive. In fact, somebody anywhere beyond eight minutes of being underwater, five to eight minutes, normally doesn't come back. I tell you, I for one was surprised, and thank God that you did come back and are able to tell your story here today.

I guess the only question I have is that the members across the way here from the Conservative Party are not bad people, they're not evil people who want to hurt people and do all kinds of things. But I wonder, and I guess it's your opportunity to have your say, if everybody who's pretty well presented here has said, "Listen, there's a problem," what do you tell them? What can you tell them, other than your testimony, in order to try to get them to rethink some of the stuff they're doing?

**Mr Lapierre:** I think Mr Books summed it up pretty well a while ago. The service that we have right now is good, but to take some of that service away I think is the wrong approach. Maybe there are some parts of Bill 84 that are beneficial to all sides, but part IX would have to have some amendments in it to make it better for everybody involved.

**The Chair:** The government caucus, one minute.

**Mrs Marland:** A minute isn't very long, but I too would like to thank you for bringing your very personal story. It's an incredible story to hear, and I know there are many stories like that around this province and this country, delivered as a result of courageous work by many men and women. We did start this morning with two firefighters who had received the Meritorious Service Medal from the Governor General of Canada, and those stories in my opinion only go to endorse the high level of professionalism that our firefighters have been trained for. I hope all firefighters, whether they are part-time or full-time or volunteers in very small communities, have that level of training, to be there to save people.

We are truly grateful for your story and grateful that you did survive because of their ability. Thank you for telling us.

**The Chair:** Thank you very much, Mr Lapierre.

1610

DON WARDEN

**The Chair:** Our next presentation is Mr Don Warden. I believe it's Fire Chief Warden?

**Mr Don Warden:** That's correct, sir.

**The Chair:** Welcome. Good afternoon.

**Mrs Marland:** You didn't come with your braid?

**Mr Warden:** No, I didn't. I'm here on a personal presentation.

**Mr Bisson:** A gag order?

**Mr Warden:** No, I didn't. I will be discussing my views on the Fire Protection and Prevention Act, 1996. I would first like to thank the Chair and committee for affording me the opportunity of presenting my opinions on this very important and needed legislation.

I am currently the fire chief for the town of Wasaga Beach, and I am the immediate past president of the Ontario Association of Fire Chiefs. My career started

some 26 years ago with the Department of National Defence fire department in Camp Borden as a civilian firefighter in 1972. In 1974 I moved to Wasaga Beach and became a probationary full-time firefighter in the town of Wasaga Beach and throughout the years worked myself up through the ranks, including first-class firefighter, fire prevention officer, first full-time deputy fire chief and then fire chief in August 1980.

I've had a small composite department that I've administered over the last 17 years. A small composite department is made up of 10 full-time firefighters, a deputy chief, myself and approximately 20 volunteers who also work as part-time firefighters and are identified as such in the collective agreement, to enable us to continue to provide the service that we wish to provide our municipality when our full-time firefighters are off on leave or sick or for some other reason are not on duty.

We do in fact utilize part-time people, and that's enshrined in the collective agreement at this point in time. The wording is such that any work normally performed by the full-time firefighter shall not be contracted out to any other person other than under the provisions that currently exist. We just couldn't operate if we didn't have that provision.

I am here today to strongly support the new proposed Fire Protection and Prevention Act. In my opinion, it is totally irresponsible of the government to even consider not changing the current legislation that we try to administer in today's ever-changing society. It is the unequivocal right of every citizen in this great province to be afforded the opportunity of receiving the best possible fire prevention and fire protection legislation that can be supplied. This new act definitely provides the government with the necessary legislative changes to ensure that the citizens receive the necessary fire protection they so rightly deserve.

The current fire service of today is composed of three different levels of service, and they all have a very important role in protecting the lives and property in this province. The new legislation, in my opinion, will strengthen the abilities of all three levels to provide a more efficient and effective fire service to the public.

We in the fire service have been attempting to secure changes to the outdated fire service legislation for many years to reflect the very changing aspects of our profession. Bill 84 provides the flexibility for municipalities to deliver the appropriate levels of fire prevention and protection in every community, and it's long overdue.

The proposed act is directed towards fire prevention and public education, and in my opinion this is extremely beneficial to all Ontario residents. Is it not better to prevent a serious incident before it happens rather than after the fact? Public education is the only way to proceed to obtain the results that are required. The government must do everything it can to retain the need for mandatory services.

The fire service has consistently tried to establish a strong management team, and we definitely require more positions in the management structure to ensure that the best possible operations are being provided. It is definitely draconian in today's world to expect only two managers to be totally responsible for the operations of a fire



department 24 hours a day, 365 days a year. We currently have other legislation in this province that requires management representation, and in many departments that are of a large size, we must negotiate to have an association member represent management's position. This is certainly not a very reliable system.

The provision of an enhanced management team within the legislation is another positive step. I definitely support the need for exclusions from the bargaining units of all positions for which a management responsibility can be demonstrated.

The proposed legislation is definitely fair and reasonable to all parties, and I urge the provincial government to be extremely firm when dealing with those concepts outlined in the legislation.

**Protection services:** I support wholeheartedly the concept of mandatory fire service in the province of Ontario. It is definitely required to deal with the issues of public safety. Bill 84 contains requirements for municipalities to establish fire prevention and public education programs. The bill confirms in law what is a practice among many municipalities.

It is a positive endorsement and appropriate leadership in the development of a public fire safety policy.

I do feel that suppression should also be considered mandatory, but I also think the proposed review process regarding the delivery of municipal fire services will ensure that the public safety is not compromised.

**Fire prevention programs:** The introduction of mandatory public fire safety programs is a very proactive approach to public safety. I firmly believe that fire prevention is the key to reducing loss of life and property in the province. Fire prevention services are best provided by personnel with fire prevention and protection experience. The fire service utilizes both full-time and volunteer resources, and the emphasis of the legislation reinforces the current fire service practices and will enhance the concept of public fire safety.

I support the proposed legislation, and encourage a firm commitment to the concept of public fire safety and prevention programs from all stakeholders in the fire service.

**Public education programs:** The proposed legislation will enhance the education of the public with respect to fire prevention programs, and it will raise the profile of the fire risks and the dangers of fire. If the public is educated to recognize the dangerous situations and if they obtain the proper knowledge to deal with those dangers, then it will definitely help to reduce the incidents of fires and save lives. This is extremely important, and it must be moved forward.

**Definition of a fire chief:** I have had a definite concern for the lack of a definition in the existing legislation. In this day and age of liability and responsibilities, this definition is essential. The fire chief is the individual who has the expertise to provide professional advice on fire-related matters to the municipal council. It is imperative that the appropriate duties and responsibilities are outlined and identified in law, so that the public and the fire chief are properly protected. Furthermore, the explanation of authority, duties and responsibilities will enhance the ability of the fire chief to manage the delivery of fire protection and prevention programs for a municipality.

The definition of a fire chief, as proposed in Bill 84, recognizes that every municipality that has a fire department should have a fire chief. This definition provides the desired flexibility requested by municipalities and ensures that accountability and responsibility are balanced between policy development and ensuring that these public safety policies are administered and delivered in the best interest of public safety. I strongly urge the government to incorporate the definition and reporting process in the final legislation.

**Firefighters' employment and labour relations:** I do not wish to dwell on part IX, which deals with the majority of issues pertaining to labour relations. However, I do wish to comment on the management exclusions. As I indicated earlier, I am definitely in support of excluding members from the association who undertake managerial functions. In today's society, to continue with only the fire chief and the deputy chief excluded from the bargaining unit is totally ludicrous. This practice is definitely inconsistent with good management and business practices. The proposed legislation is definitely fair to all stakeholders, and I urge the government to incorporate the management team and the management exclusions process in the final legislation.

I further would like to speak on the deputy fire chief's position. I strongly urge that the government seriously consider re-examining the legislation to also include a definition for the deputy fire chief's position. It is extremely important that he be identified as the one individual who can assume the role of the fire chief in his absence.

In conclusion, I believe the proposed legislation will provide the necessary direction and guidance that is required to ensure that all of the province of Ontario receives the effective fire protection and fire prevention service that it so rightly deserves, and further, that the legislation will enable the fire service to deliver an efficient and effective delivery of fire prevention and protection services into the next millennium.

I would also like to express my sincere congratulations to the Solicitor General, Robert Runciman, and the fire marshal, Bernie Moyle, for bringing this excellent piece of legislation forward. It's long overdue and we certainly need it. Thank you.

**The Chair:** Thank you, Mr Warden. Could I just ask you, what's the composition of your force in Wasaga Beach?

**Mr Warden:** I have a composite fire department. I have 10 full-time firefighters, a deputy chief and myself and approximately 20 volunteers, two stations.

**The Chair:** Mr Bisson, we've got about three minutes for you.

**Mr Bisson:** I guess the first question would be around good business practices in your case. The simple question I have is — you have 10 full-time firefighters working for you; I take it there are two people in your management position, yourself and your deputy chief — how many managers do you need to watch over 10 people?

**Mr Warden:** In my current situation I have adequate people out of the bargaining unit. My comments are reflected to support the working scale that's in the

document that's being proposed, that the larger the department the more people you should have out to manage the department.

**Mr Bisson:** I just wanted to clarify. You weren't suggesting for a second that we have three or four managers for 10 people?

**Mr Warden:** Not at all.

**Mr Bisson:** Okay. You were scaring me there for a while.

The other thing is that you talked about mandating provincial standards, I think is what you said. Are you indeed saying that the province should take the responsibility of making sure that we mandate both fire prevention services and education? First of all, should that be mandated?

**Mr Warden:** Definitely.

**Mr Bisson:** The second thing to that, I guess, is the whole question of fire suppression. It is not mandated in the legislation. I think — I'm not sure — you said it should be.

**Mr Warden:** I said it should be seriously reconsidered.

**Mr Bisson:** Is this a deficiency in the act, in your view? That's all right, you can say it.

**Mr Warden:** Yes.

**Mr Bisson:** Okay. We can have a little bit of fun at this sometimes. Actually you've answered my questions. I had three questions and we got them all out. Thank you very much.

**Mr Carr:** I wanted to explore how you work with your full-time versus the volunteers. As you know, in the field, the teamwork is essential. How have you been able to do it between the various members, the volunteers and the full-time? Is there anything you do special? Maybe you could just outline for the committee what you do in order to ensure that teamwork is there between the various parts of your team.

**Mr Warden:** All of my staff are trained to the same level. We all train to the IFSTA third-edition training manual. Everyone is required to write small tests at the end of every section of the training. The full-time and the volunteers train together the second and fourth Tuesday of every month, and any additional Saturday training sessions that we organize. They all took the 100-hour provincial course that's supplied by the fire college, and all successfully passed it. I very strongly support that training should be the same for every level of fire service in Ontario. In my opinion, the new legislation will enhance that capability.

**Mr Carr:** I think you're right, and as you know, that is the intention, to have that. You probably have had opportunity to look at other areas across the province. The other areas that have full-time and the volunteers working together, are you an exception to the rule or do the other ones have as good a working relationship between all of the members of their team?

**Mr Warden:** I think it depends on the magnitude of the department. I think once you get to a certain size, there is a feeling that, "We really don't need the volunteers," type atmosphere. I think the departments that don't have that problem, then there's a workable situation. I have travelled across the province many times, and there are other departments out there that do operate in the same magnitude that I do. There aren't very many of us, but they are out there. We could not afford to provide the service we're doing unless we operate the way we do.

**The Chair:** Thank you, Mr Carr, and thank you, Mr Warden, for your excellent presentation here today.

Ladies and gentlemen of the committee, that concludes our business. I thank you very much. It's been a very long day, but a very productive day.

We are adjourning to our next sitting, which is Monday, April 14 at 10 am in Kingston, Ontario. We will see you then.

*The committee adjourned at 1625.*











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**Staff / Personnel:** Mr Andrew McNaught, research officer,  
Legislative Research Service



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